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SOUTH AFRICAN AFRICA RECORD



DIE SUID-AFRIKAANSE INSTITUUT VAN INTERNASIONALE AANGELEENTHEDE
THE SOUTH AFRICAN INSTITUTE OF INTERNATIONAL AFFAIRS

NUMBER 18

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Published by the South African Institute of International Affairs. Four issues per year. Subscription rate R10,00 per annum (surface mail). R14,00 per annum (overseas airmail). Price per copy R2,50 (plus postage for overseas airmail).

Uitgegee deur die Suid-Afrikaanse Instituut van Internasionale Aangeleenthede. Vier uitgawes per jaar. Intekengeld R10,00 per jaar (landpos). R14,00 per jaar (buitelandse lugpos). Prys per eksemplaar R2,50 (plus posgeld vir buitelandse lugpos).

Orders for the RECORD should be addressed to the Administrative Secretary, S.A.I.I.A., P.O. Box 31596, Braamfontein, 2017, South Africa.

SOUTHERN AFRICA RECORD

NUMBER EIGHTEEN

DESEMBER/DECEMBER 1979

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RHODESIAN SETTLEMENT INITIATIVES

A. Constitution of Zimbabwe Rhodesia, 1979*

The Constitution of Zimbabwe Rhodesia, 1979, is based on the Rhodesian Constitutional Agreement signed at Salisbury on 3rd March, 1978, by the Hon. I.D. Smith, on behalf of the Rhodesian Government; Bishop A. Muzorewa, on behalf of the United National African Council (UANC); the Rev. N. Sithole, on behalf of the African National Council (Sithole) (as ZANU was then called); and Senator Chief Chirau, on behalf of the Zimbabwe United People's Organization (ZUPO).

At that stage, Senator Chief Ndiweni, the present leader of the United National Federal Party (UNFP), was the Vice-President of ZUPO and was present at the talks leading up to the Agreement.

The negotiations (leading to the March 3rd Agreement) took place over a period of three months and the basic principles for the new Constitution, which were unanimously agreed, were as follows:—

- (a) there would be a Common Voters' Roll, with all citizens of 18 years and over being eligible for registration;
- (b) in the Legislative Assembly there would be 72 seats reserved for Blacks and 28 reserved for Whites;
- (c) there would be a justiciable Declaration of Rights protecting the rights and freedom of individuals;
- (d) the independence and qualifications of the judiciary would be entrenched and judges would have security of tenure of office;
- (e) the Public Service, Police Force, Defence Forces and Prison Service would be maintained in a high state of efficiency and free from political interference.

The March 3rd Agreement also provided for the establishment of a Transitional Government, which would be responsible for the preparation and drafting of a new Constitution based on these principles.

A Constitution Drafting Committee was established under the chairmanship of the Director of Legal Drafting (a civil servant) and the UANC, ZANU and ZUPO each appointed two members to this Committee and the Rhodesian Front, one member. With one exception, the members were either advocates or attorneys. Thus, each of the signatories to the March 3rd Agreement had his representatives on the Constitution Drafting Committee to ensure the draft Constitution contained the principles that had

* Explanatory statement issued by the Zimbabwe Rhodesia Ministry of Information in July 1979.

been agreed, and otherwise contained provisions acceptable to the parties. When a final draft of each chapter had been approved by the Constitution Drafting Committee, it was submitted to the Ministerial Council (which consisted of nine black members and nine white members) for discussion and comments.

In the Ministerial Council all the political parties involved in the March 3rd Agreement were represented and had a full opportunity to discuss the drafts. Thereafter, each draft chapter was submitted to the Executive Council, which consisted of the four leaders of the parties concerned, (being three black members and one white member). This Executive Council operated on a basis of consensus, so any member could have rejected any provision to which he or his party took exception.

Thus, all the parties to the March 3rd Agreement participated fully in the drafting of the Constitution and in the subsequent steps of considering and approving the legal drafts before the final Bill was submitted to Parliament for enactment. The black parties and their leaders concurred fully and freely with the provisions.

At the election, which was held under the new Constitution, to elect the 72 black members, 1 869 077 people, constituting 64,45 per cent of the voting population, cast their votes for the various parties contesting the election. Of the parties which participated in the election, only the NDU, which received 18 170 votes — 1 per cent of the valid votes cast — was not represented during the discussions leading up to the March 3rd Agreement and the subsequent preparation of the new Constitution.

It is obvious from the above that the Blacks in Zimbabwe Rhodesia have accepted the new Constitution and therefore no referendum is necessary.

WHITE REPRESENTATION

The principle that the white community should have separate white representation in the House of Assembly is not a novel principle. In the Zambia Independence Order, 1964, provision was made for a National Assembly of 75 elected members and up to five nominated members. Of the elected members, 10 were Whites elected by Whites on a special White Voters' Roll. In the Fiji Independence Order, 1970, provision was made for separate voters' rolls for Indians, Fijians and Others, in addition to the National Roll, and a specific number of members of the House of Representatives had to be Indian, Fijian or "Other" and registered on the appropriate racial roll.

Likewise, the Mauritius Independence Order, 1968, contained racial provision in Schedule I which provided for a Hindu Community, a Muslim Community, a Sino-Mauritian Community, with the General Population as a fourth Community, and eight seats in the Legislative Assembly were allocated to members of the various registered political parties based on the racial community to which the candidate belonged. Even the Anglo-American proposals for the settlement of the Rhodesia question envisaged that there would be an Assembly consisting of 100 members elected by voters on the Common Roll, with an additional 20 members to cater for the separate representation of the white community.

With regard to the proportion of white members in the House of Assembly, it must be remembered that the British Government in 1971 accepted that there would be "majority rule" in Rhodesia if there was a House of Assembly consisting of 50 Blacks elected by black voters, 50 Whites elected by white voters and 10 additional members elected by black and white voters. Although the support of some of the white members will be required for any amendment to specified parts of the Constitution or to parts of eight Acts presently in force, it cannot be truthfully stated that the whites "have carved out vast residual power for themselves". This is a completely false statement of the new Constitution.

COMMISSIONS

To give effect to the independence of the Public Service and Prison Service, a Public Service Commission was established and given the function of making appointments to, and discharges from, the Public Service and Prison Service.

The establishment of such a Commission has been adopted in many other Constitutions in an attempt to maintain a Public Service free from political interference. In addition, in the Constitution of Zimbabwe Rhodesia it is provided that the Public Service Commission will make appointments on merit and thus considerations of race or political preference cannot be allowed to influence the Commission.

The members of the Transitional Government accepted that, in order to maintain the present high standards in the Public Service and the Prison Service, it was essential the majority of members of the Commission should be people who had held high office in the Public Service for a number of years, because such people could be expected to understand the needs and requirements of the Public Service and the Prison Service. At

present, the Public Service Commission consists of one black and three white members.

There are a number of Blacks in the Public Service who presently hold posts which are equivalent to Under-Secretary in a Ministry and therefore within two or three years there will be sufficient specially qualified Blacks to ensure that the majority of the members of the Commission will be black if the Government of the day so wishes. It is expected, though, that future appointments to the Commission will be again made on the basis of merit and not on racial grounds. It must be noted, of course, that the members of the Commission, including the white members are appointed by the President, who is black, on the recommendation of the Executive Council, of which more than two-thirds of the members are Blacks.

In relation to the Police and Defence Forces, it was similarly agreed that these should be maintained as efficient forces free from political interference. The principle set out in the Mauritius Independence Order, 1968, was adopted whereby the Commissioner of Police and Commanders of the Army and Air Force are given command of the appropriate force with responsibility for the administration thereof, subject to any general directions of policy given by the Prime Minister or any other designated Minister.

The only novel provision in the Zimbabwe Rhodesia Constitution is that providing that the Commissioner or Commander should be appointed from people who have held senior rank in the force concerned for a specified period. This was done to maintain the traditions of the various forces and to retain the confidence of the members serving in the forces.

Obviously, a person who has knowledge of local conditions and has worked his way through the ranks is better fitted to command than an outsider would be. The Constitution also provides for the establishment of a Police Service Commission and a Defence Forces Service Commission. The concept behind these two Commissions is the same as the concept behind the Public Service Commission but, because they deal with disciplined forces, the Commissioner and the Commanders obviously have to have greater powers of command. Although, in the case of these two Commissions it will be at least five years before there are black specially qualified members there will be two black members and two white members from the start, with the chairman of the Public Service Commission as a common chairman.

RESERVED SEATS

When the reservation of 28 seats for white representation was agreed, it was also agreed that such representation should be guaranteed for a minimum of 10 years. There could be no such guarantee unless the amendment of the provisions concerned required the concurrence of some of the white members.

Consequently, the Constitution provides that the specially entrenched clauses can only be amended if the amendment is passed by 78 votes in the House of Assembly. However, because of the racial connotations in having a separate white voters' roll, it is provided that after the second Parliament, or 10 years, whichever is the longer, a Commission will be established under the chairmanship of the Chief Justice to report on the desirability of retaining the special white representation.

If this Commission reports that the special white representation should be abolished or reduced, then a Bill to give effect to the recommendation may be passed by a 51 per cent majority in the House of Assembly. Of course, the white representation can be altered at any time if the Bill providing therefore is passed by 78 members in the House of Assembly.

ENTRENCHMENT

The Constitution provides for the entrenchment of certain provisions of the Constitution and of various other laws. The provisions of the Constitution which are entrenched are mainly those dealing with matters of fundamental constitutional importance such as the appointment and functions of the President, the composition of Parliament and the tenure of office of members of the Legislative Assembly or of the Senate.

The principle of an Executive Council to advise the President and the authority of the President to declare public emergencies subject to the approval of the House of Assembly, provisions relating to the Judicature and the various Commissions, the Consolidated Revenue Fund, the Declaration of Rights, citizenship and the procedure for amending the Constitution or other specially protected laws are also entrenched.

The other laws which contain provisions that are specially entrenched, either directly or indirectly, are:

- The Electoral Act specifies that the provisions thereof providing for the appointment and functions of the Delimitation Commission and the Registrar-General of Elections, the qualifications for election as a Senator or member of the House of Assembly and the system of elections for the first

Parliament are specially entrenched. This is to ensure that the foundations of the Constitution cannot be undermined by a lesser number of members than is necessary to amend the entrenched provisions of the Constitution. The other provisions of the Electoral Act, which set out the mechanics for elections, can be amended by Parliament by an ordinary majority.

- ❶ The Education Act, 1979, provides for the establishment and operation of private schools and community schools and also government schools. In order to ensure that education will continue to be provided by the government at present standards, the Act provides for three classes of government schools — high fee paying, low fee paying and free schools. The number of schools which may be established by government, and the facilities to be provided at the schools, is within the complete discretion of the government of the day. All the Act requires, however, is that the government shall maintain the various classes of schools which are presently maintained in the country. The provisions of the Education Act which are entrenched are those which ensure the retention of these principles. Admission to government or community schools cannot be regulated on a racial basis.
- ❷ The Medical Services Act, 1979, requires the government, as far as is reasonably possible, to provide and maintain or encourage the provision and maintenance of comprehensive and constantly developing hospital services. Government hospitals are required to be classified as open or closed, depending on the basis of the fees to be charged thereat. Admission will not, however, be regulated on a racial basis. The Act specifies that provisions providing for the above matters are specially entrenched.
- ❸ The Housing Standards Control Act (*Chapter 208*) provides for the control of the standard and safety of buildings and also for the control of the harmful use or occupation of premises and undue interference with the rights of persons. The Act specifies that the relevant provisions, which are not racially discriminatory, are specially entrenched.

In addition, the Parks and Wild Life Act, 1976, and the Forest Act (*Chapter 125*) prescribe the areas of the country which are set aside for national parks and the conservation of wild life and for forestry purposes. The Constitution provides that the areas as set aside on 31st May, 1979, may not be reduced by more than one per cent unless the Bill providing for such reduction is passed by 78 votes in the House of Assembly. The purpose of

this provision is to ensure that the total extent of the areas set aside for national parks or forestry is not reduced to any great extent unless the necessary majority of the members of the House of Assembly agree thereto.

Local government in the country is provided by a system of municipalities, town councils, rural councils and local boards. These are administered throughout the country on a completely non-racial basis. The Constitution provides that any Bill which amends certain provisions of the Acts regulating these local authorities requires to be passed by 78 votes in the House of Assembly.

DECLARATION OF RIGHTS

As mentioned above, the Constitution contains a justiciable Declaration of Rights providing for the protection of the right to life and the right to personal liberty, protection from slavery or forced labour or inhuman treatment, protection from deprivation of property and from arbitrary search or entry, protection of the law, protection of freedom of conscience, of expression, of assembly and association and of movement and protection from discrimination.

Subject to the limitations contained in this Declaration of Rights and the provisions referred to above, which are specially entrenched, Parliament, under the Constitution, can legislate in any sphere of government by a simple majority. As far as the Declaration of Rights itself is concerned, if the government of the day considers that a state of emergency should be declared and such a declaration is approved in the House of Assembly, most of the protections contained in the Declaration of Rights are suspended to the extent necessary to deal with situations arising during the state of emergency.

The American Secretary of State, Mr Cyrus Vance, is reported to have criticized the Declaration of Rights in the following terms: "The Constitution does contain prohibitions against racial discrimination in the content or execution of the laws. However, it exempts from the discrimination ban such areas as family law, entry into employment, the appropriation of public funds, and important aspects of criminal proceedings. As a result, the Rhodesian Constitution legalizes the treatment of blacks as second class citizens."

This criticism is, of course, completely fallacious and the *bona fides* of any person making such a criticism must be doubted. The true position is that the Declaration of Rights prohibits discrimination in the content or execution of the laws and the exemptions from this prohibition are as follows:—

- (a) any matters relating to marriage, divorce, succession and other spheres of personal law and the application of African customary law to cases involving Africans. The reason for this is to permit African customary law to be applied in personal matters and is a normal provision in African countries;
- (b) restrictions on entry into or employment in Zimbabwe Rhodesia or the enjoyment of services provided out of public funds. These restrictions may, however, only be applied to persons who are not citizens of, or permanently resident in, Zimbabwe Rhodesia. They are designed to permit the Government of the day to regulate immigrants, just as many countries today are refusing to admit Vietnamese refugees into their countries. This is necessary because the Declaration of Rights is applicable to all persons, whether or not they are citizens of Zimbabwe Rhodesia;
- (c) the appropriation of public revenues or other public funds. In this respect the government of the day, through the House of Assembly, regulates appropriations;
- (d) the according to African tribesmen of privileges or rights relating to Tribal Trust Land — these of course cannot be restrictions forcing them to live on “reservations” as was done in the United States of America.

In addition, it is provided that the provisions of the prohibition do not apply to the exercise of any discretion relating to the institution, conduct or discontinuance of civil or criminal proceedings. This, too, is a standard provision found in other Constitutions enacted by the British Government. It is not a novel provision inserted in the Zimbabwe Rhodesia Constitution for the purpose of creating second-class citizens. The discretion to institute or discontinue criminal proceedings vests in a public official and the provision in question is obviously designed to prevent him being harassed by vexatious applications in the exercise of his functions.

Finally, it must be noted that the above exemptions are not substantive provisions; they are merely permissive, that is they permit the Parliament of the day to make laws falling within the exemptions and any laws so made may, of course, be amended or repealed by that Parliament or a subsequent Parliament. The Parliament of the day can provide for any such exemption which it considers to be necessary in the circumstances and as the substantial majority of the members of Parliament are black, they can safely be expected to look after the rights of Blacks and ensure that they are justly treated. They are hardly likely to legislate for the purpose of treating Blacks as second-class citizens,

even if this were permissible under the Declaration of Rights.

It is a gross distortion to state that the exemptions referred to above legalize the treatment of Blacks as second-class citizens. The absurdity of the statement is shown by the fact that in relation to paragraph (d) above in connection with Tribal Trust Land, which constitutes almost 40 per cent of the area of Zimbabwe Rhodesia, tribesmen are given special privileges and rights which are denied to Whites and non-tribesmen.

POWER OF PARLIAMENT

The Constitution confers on Parliament power to make laws for the peace, order and good government of the country and such laws may have extr-territorial effect. Thus, Parliament may, by a simple majority, amend most of the laws currently in force in Zimbabwe Rhodesia, including, *inter alia*, those providing for the national flag, the administration of prisons, immigration control, civil evidence, the Criminal Code, extradition, censorship and entertainments control, control of correspondence colleges, official secrets, the production and marketing of agricultural products, plant breeders' rights, animal health and plant protection, deeds registries, land settlement, natural resources, the administration of parks and wild life areas, Tribal Trust Land and the development thereof, the mining industry, the Reserve Bank, currency and exchange control, customs and excise, income tax, sales tax, the control of banks, building societies and companies, patents, trade marks and copyright, the control of professions, African tribal law and custom, postal, radio and telecommunications services, transportation, including the national airline, air services, the national railways and road motor transportation, industrial conciliation, apprenticeship training and skilled manpower development, the control of trade and commerce, including the generation and distribution of electricity, the iron and steel industry, public health, including drugs control and control of food and food standards, and the control of national bodies such as the National Archives, National Arts Foundation, National Free Library, National Gallery, National Museums and Monuments and Colours Control Board.

From this list it can be seen that the powers of the government to run the affairs of the country are only slightly circumscribed. Of course, the Legislature may enact new legislation not mentioned or dealt with on this list. In fact, the legislative powers of the Parliament are much wider than those conferred on the Commonwealth Parliament in Australia or on any of the State Legislatures in Australia. Moreover, if the Prime Minister

wished to introduce in Australia. Moreover, if the Prime Minister wished to introduce a new energy policy or fuel rationing scheme, he could do so very easily.

As far as the control of finances is concerned, Bills appropriating public funds are passed by a simple majority in the House of Assembly and cannot be delayed by the Senate for more than eight sitting days. Thus, the government cannot be hindered in its financing of government policies otherwise than by financial considerations.

In relation to the maintenance of law and order, although the administration of the Police Force is vested in the Commissioner of Police, it is only Parliament that can create criminal offences and prescribe penalties. Parliament, by a simple majority, can amend the Criminal Code and any other law in force relating to the maintenance of law and order.

RACIAL DISCRIMINATION

The last Parliament constituted by the Constitution of Rhodesia, 1969, made the following laws:—

- (a) it enacted the Public Premises (Prevention of Racial Discrimination) Act, 1979;
- (b) it repealed the racially discriminatory provisions in the following Acts:—
 - (i) General Law Amendment Act (*Chapter 43*);
 - (ii) Services Levy Act (*Chapter 185*);
 - (iii) Rural Councils Act (*Chapter 211*);
 - (iv) Urban Councils Act (*Chapter 214*);
 - (v) African Beer Act, 1974;
- (c) it repealed the following Acts which contained racially discriminatory provisions:—
 - (i) Education Act (*Chapter 82*);
 - (ii) Land Tenure Act (*Chapter 148*);
 - (iii) African Education Act (*Chapter 233*);
 - (iv) Africans (Urban Areas) Accommodation and Registration Act (*Chapter 242*);
 - (v) Shop Hours Act, 1975;
- (d) it enacted the Tribal Trust Land Act, 1979, which sets aside approximately 40 per cent of the area of Zimbabwe Rhodesia for occupation by tribesmen on a voluntary basis — not on a compulsory basis as has been done in other countries.

B. United States statements concerning sanctions

(i) President Carter on 7 June 1979

After the most careful and thorough consideration, I have made a decision on the Zimbabwe-Rhodesian sanctions. First, I am absolutely convinced that the best interests of the United States would not be served by lifting the sanctions.

Second, I am equally convinced that the best interests of the people of Zimbabwe Rhodesia would not be served by lifting of the sanctions.

Finally, it is clear to me that although there has been some very encouraging progress made in that country, the action taken has not been sufficient to satisfy the provision of the US law described in the so-called Case-Javits amendment.

In reaching this decision, we have carefully assessed recent events in Zimbabwe Rhodesia. We have consulted very closely with the British, who retain both legal and historic interests and responsibilities for that country.

The actual voting in the April elections appears to have been administered in a reasonably fair way under the circumstances. But the elections were held under a Constitution that was drafted by and then submitted only to the white minority, only 60 per cent of whom supported the new Constitution.

The black citizens, who constitute 96 per cent of the population of Zimbabwe Rhodesia, never had a chance to consider nor to vote for or against the Constitution under which the elections were held.

The Constitution preserves extraordinary power for the 4 per cent white minority. It gives this small minority vastly disproportionate numbers of votes in the country's Parliament. It gives this 4 per cent continued control over the army, the police, the system of justice, and the civil service, and it also lets the 4 per cent minority exercise a veto over any significant constitutional reform. Moreover, while the Case-Javits amendment called for free participation of all political factions or groups in the country in the recent election, the internal representatives of the opposing political parties were banned from the election. They were unable to participate in the political process. They were prohibited from holding meetings, from having political rallies, from expressing their views against voting in the election, and even prevented from advertising their views in the news media.

For these reasons, I cannot conclude that the elections were either fair or free. Nor can I conclude that the other condition of the US law has been fully met. The authorities in Zimbabwe Rhodesia have expressed their willingness to attend an all-par-

ties meeting, but they have not indicated they are prepared to negotiate seriously about "all relevant issues." All relevant issues have to be considered in order to comply with the US law.

We will, of course, continue to keep the question of the observance of sanctions under review. I sincerely hope that future progress can be made and made rapidly. Along with the British, we will particularly look for progress toward a wider political process and more legitimate and genuine majority rule. In so doing, we will report to the Congress and obviously consult with the Congress on a monthly basis on the progress being made in Zimbabwe Rhodesia.

The position that I have outlined best serves not only American interests but the interests of our allies in a region of the world of increasing importance to us. It should preserve our diplomatic and ties of trade with friendly African governments and also limit — and this is very important — limit the opportunity of outside powers to take advantage of the situation in Southern Africa at the expense of the United States.

No other government on Earth has extended diplomatic relations or recognition to the Zimbabwe Rhodesian Government.

However, these actions of the United States that I am describing should help and encourage the newly elected authorities, including Mr Muzorewa, to intensify their efforts to achieve genuine majority rule; an end to apartheid and racism based on firm, reasonable, constitutional processes that exemplify the very principles on which the US Government has been founded.

I consider this principle to be extremely important to represent in international affairs what our nation stands for, what our people believe in.

I recognize, to be perfectly frank with you, that I do not have a majority of support in the US Senate. My guess is that at the present time in the House we would have difficulty in this position prevailing. But because it is a matter of principle to me personally, and to our country, because I see the prospect of our nation being seriously damaged in its relationship with other countries in Southern Africa and elsewhere, because to lift sanctions at this time would directly violate international law, our past agreements ever since President Johnson under the United Nations, and would not contribute to the best interests of either our country or the people of Zimbabwe Rhodesia, I intend to do everything I can within my power to prevail in this situation.

It means a lot to our country to do what is right, and what is decent, and what is fair, and what is principled. And in my opinion, the action that I have described fulfills these requirements.

(ii) Secretary of State Vance on 12 June 1979*

The President has now made the determination called for by the Case-Javits amendment. I am here today to explain that judgment in more detail. Let me summarize the conclusions we have reached.

- There has been encouraging progress in Zimbabwe Rhodesia. But this progress is not yet sufficient to justify our lifting the sanctions.
- We will continue to keep the sanctions issue under review. We will particularly look for movement toward a wider political process and genuine majority rule.
- We will report on a monthly basis to the Congress on the progress being made.
- We are convinced that the best interests of the United States would not be served by the lifting of sanctions now.
- Our challenge now is to encourage further progress, both toward an end to discrimination and toward peace.

THE STAKES INVOLVED

Let me focus initially on the stakes involved. For this is not a small matter. It is among the more important issues on our foreign policy agenda.

Over the past several years there have been rising levels of interest in the Congress and in the country about political trends in Africa. Some have stressed our growing economic stake in good relations with African nations that possess many of the resources upon which our prosperity depends. Others emphasize our political interests in searching for dependable communications and understanding in a continent which holds more than a third of the world's nations. Still others have seen in Africa a new ground for East-West competition.

Whatever basis for an American interest seems most compelling, there is one reality which ought to be at the forefront of our deliberations. It is this: our work for peaceful change in Southern Africa — principally in Rhodesia and in Namibia — has been the most positive single element shaping our relations with virtually all African nations.

The joint Anglo-American peace effort in Rhodesia and our efforts with four of our closest NATO Allies to bring peace to Namibia have demonstrated that we intend to respect in Africa the same ideals we espouse for ourselves: full equality under the law for all peoples of all races. Nothing else we can do strikes more resonance among African leaders and peoples.

* Testimony before the House Foreign Affairs Committee and the Senate Foreign Relations Committee.

This fact ought to be pondered very carefully in connection with any further compulsory legislation on our participation in the UN sanctions against Rhodesia. Do we really want to forswear our most important single resource in this increasingly important part of the world? It is my hope that we will not, for the sake of our interests as well as our ideals.

Lord Hugh Caradon, a distinguished British diplomat who has grappled with these issues for many years, recently put it this way: "(I)t will be a major disaster," he wrote, "if the West appears to be supporting white minorities, leaving the Soviet Union to reap the advantage . . ."

Last year's Case-Javits amendment established two measurements of progress toward majority rule in Rhodesia that were to be considered in deciding whether to continue to enforce sanctions. The first was whether the Government of Rhodesia has " . . . demonstrated its willingness to negotiate in good faith at an all-parties conference, held under international auspices, on all relevant issues . . ." The second standard was installation of a government " . . . chosen by free elections in which all political and population groups have been allowed to participate freely . . ."

Both conditions encompass goals to which the Administration subscribes. At the same time, we have had good reason to make a precise interpretation of that legislation. For if the President's determination had been positive, the amendment would have mandated that we cease our participation in sanctions adopted in 1966 and 1968, with our support, by the UN Security Council. The Security Council was acting within its mandatory powers under the UN Charter. As members of the committee know, such actions are legally binding treaty obligations of the United States. And we must assume that the Congress would expect the most rigorous and compelling possible showing of fact when the outcome may be to place the United States in violation of international law.

These sanctions were imposed at the request of Great Britain, which retained sovereignty over Rhodesia after the white minority regime unilaterally declared independence in 1965. Britain retains today this legal and historic responsibility.

I share the view of the Congress, which underlies the Case-Javits legislation, that progress should be recognized. And, as the President said, there has been encouraging progress in Zimbabwe Rhodesia. A step has been taken away from total white control and toward majority rule. For the first time in the history of that country, the white minority recognized the right of the black majority vote. For the first time, millions of black Rhode-

sians cast their ballots in a national election. There is a black Prime Minister — Bishop Muzorewa — and a degree of shared power.

But while there has been progress in Zimbabwe Rhodesia, it is not yet sufficient, in our judgment, to satisfy the provisions of the Case-Javits amendment.

PROVISION CONCERNING THE ALL-PARTIES MEETING

Let me turn first to the determination regarding an all-parties meeting. Such a meeting was first proposed by Britain and the United States in March 1978. Within a month, the Patriotic Front agreed to such a meeting. The Salisbury parties, however, refused to agree to a meeting at that time on the grounds that further negotiations with the Patriotic Front would undermine the internal settlement.

Beginning last October, the Salisbury Government appeared to reverse its opposition to an all-parties conference. In a meeting with the Senate Foreign Relations Committee, and later in a speech in Washington Prime Minister Smith indicated for the first time that he would be willing to attend a meeting with other parties. That position was reiterated directly to the Administration in subsequent days.

However, the law requires that there be more than an expressed willingness to attend such a meeting. It calls for a demonstration by Salisbury that it would be willing to engage in good faith negotiations on all relevant issues. The Conference Report interprets "a willingness to negotiate in good faith" to mean that the Rhodesian Government has "committed itself" to participate. It goes on to define "all relevant issues" to include, among other things, the terms of majority rule, the protection of minority rights, the Anglo-American plan, and the terms of the Salisbury agreement. I believe it contemplated that the Rhodesian Government would have to be sufficiently committed to engage in serious negotiations at such a meeting and sufficiently flexible to discuss all issues.

The Rhodesian Government's positive expressions, however, were not supported by its actions. On October 19, 1978, the day before the Salisbury Executive Council conveyed to Administration officials its willingness to attend an all-parties meeting, major air strikes were initiated against opposition camps in Zambia, sharply intensifying the conflict. Despite our warnings about their consequences for possible negotiations, the raids continued for several days, and similar raids took place over the following months.

In subsequent efforts by Britain and the United States to build a substantive foundation for a successful meeting, Salisbury consistently refused to explore possible compromises that might lead to a settlement. British representative Cledwyn Hughes was sent on a mission in late 1978, accompanied by US Ambassador Stephen Low,¹ to explore the possibility of an all-parties meeting. They were unable to draw Mr Smith and his colleagues into any discussions of matters of substance and concluded that there was no indication that the Salisbury parties would come to an all-parties meeting prepared to discuss arrangements other than their own.

Certainly, responsibility for the current crisis lies with both sides in the conflict. In recent months, the Patriotic Front has been equally unwilling to engage in serious negotiations. Both sides have engaged in acts of violence that inhibited peaceful negotiations. Both sides have sought dominance rather than accommodation.

In short, we and the British reluctantly concluded that neither side was willing to negotiate seriously and flexibly on all relevant issues.

PREREQUISITE FOR FREE ELECTIONS

Let me turn now to the second prerequisite of our law — that calling for free elections. On this part of the issue, considerable attention has been concentrated on the size of the turnout, the secrecy of the ballot, the security of the polling places, and other matters relating to the actual conduct of the April elections.

We should and do recognise that the elections were conducted in reasonably free fashion under the circumstances. Observers reported that the privacy of the polling booth was observed, that a massive voter education effort was made, that those parties participating in the election were allowed to campaign freely, and that the government did not bias the elections in favour of one of the participating parties over the others.

But we must also consider such central issues as the effective distribution of power and the freedom of political expression and choice.

The April elections were conducted on the basis of a Constitution approved in January in a national referendum in which only Whites were permitted to vote. Under that Constitution the powers of government rest first with the House of Assembly — consisting of 100 members. Article 22 of Chapter III of the Constitution creates that body. Let me read from Article 22:

(A) 72 shall be black members duly elected thereto by voters

1. See *Southern Africa Record* no. 16, August 1979, pp. 45-49.

- enrolled on the common voters roll . . .
- (B) 20 shall be white members duly elected thereto by voters enrolled on the white voters roll . . .
 - (C) 8 shall be white members duly elected thereto in accordance with . . .” (The article then describes the separate procedures to be used in electing the other eight white parliamentarians.)

So the Constitution distributes seats in the government on the basis of race. It is enshrined in the Rhodesian Constitution that there shall be 28 white Members of the House Assembly — 28 per cent of the seats, reserved for less than 4 per cent of the people.

But it is not only disproportionate representation that concerns us; it is the reservation of basic elements of sovereignty for minority control. The Constitution gives the minority continued control over the army, the police, the system of justice, and the civil service, and it also lets the 4 per cent minority exercise a veto power over any significant constitutional reform. Let me be more specific:

- For at least 5 years, positions in the Cabinet are to be distributed on the basis of each party's strength in the House. Thus, special privileges in Parliament automatically translate into administrative power. In the current 19-member Cabinet there are five “white only” places.
- The Constitution requires that control of the military, the police, the courts, and the civil service be in the hands of those selected from the highest ranks of the current services. It also establishes white-dominated commissions to control administration and hiring practices in each of these branches, not subject to direction or control by elected leaders. This will have the effect of excluding Blacks from upper levels of administration of these central functions of government.
- Of 170 clauses in the Constitution, some 120 “entrenched clauses” can be changed only with the approval of 78 of the 100 Members of the House. That means an effective white veto power over major constitutional reform.
- Similar provisions apply to day-to-day lawmaking in such areas as housing standards, electoral laws, medical care, and education. In these realms, too, the minority has retained extraordinary power for itself.
- The Constitution does contain prohibitions against racial discrimination in the content or the execution of laws. However, it exempts from the discrimination ban such areas as family law, entry into employment, the appropriation of

public funds, and important aspects of criminal proceedings. As a result, the Rhodesian Constitution legalizes the treatment of black citizens as second-class citizens.

It is said that this is only a transitional, 10-year arrangement. But all that is promised in 10 years is a review to recommend changes. It will be carried out by a five-member commission, three of whom will almost certainly be white. Two of the commission's members will be chosen by the white members of the House of Assembly. Two will be chosen by the President. The fifth member, the chairman, will be the Chief Justice, who is likely to be white because the Constitution requires that he be appointed from persons who already are among the country's highest judges.

Let me be clear: we believe that it is essential that the rights and security of the country's minority be protected. For that reason, we have consistently taken the position that fair constitutional arrangements must include special clauses guaranteeing the rights of all individuals — including property and pension rights. This is important in assuring the white minority the security they must have if they are to remain in the country and continue to help build a healthy, multiracial society.

Protecting minority rights is important. And it is fair. But perpetuating minority privilege is not. And by protecting disproportionate power and privilege for a small minority, the current Rhodesian Constitution is likely to increase resentment and tension between the races and contribute to polarization and strife in the future.

We can only conclude that the same Constitution that permitted elections also kept them from being truly free.

Our judgment about the elections is reinforced by an assessment of some of the conditions that prevailed during the election period. The election authorities adopted a requirement that no party could participate unless it first embraced the Constitution adopted in January by white voters only. The two major opposition parties — ZAPU (the Zimbabwe African People's Union) and ZANU (the Zimbabwe African National Union) — were outlawed for the 7 months preceding the elections. All political activities by those groups were proscribed. Hundreds of their members were detained. They were prohibited from holding meetings, from having political rallies, and from expressing their views against voting in the election. Their statements could not even be carried in the news media.

The Salisbury parties did offer an amnesty to opposition forces. But it was conditioned on a requirement that they lay down their arms, accept the internal settlement, and return

home. Those accepting the amnesty offer would have had to agree to the Constitution drawn up by the internal parties and to participate in elections managed by the internal parties. The mistrust among the parties has been far too great for either side to have accepted elections controlled by the other, without any guarantees that the elections would be impartially run.

It is primarily on the basis of these factors — the inherent problems with the Rhodesian Constitution, the denial to nearly 97 per cent of the people of any voice in approving that arrangement, and the firm restrictions on participation in the elections — that we have concluded that the April elections were not free as the Case-Javits amendment requires if the sanctions are to be ended.

At the same time it is clear that the elections have created a new reality in Zimbabwe Rhodesia. A high proportion of the people there did choose to vote, many with great enthusiasm.

The minority has recognized that the majority must be brought into the political process, and there has been important movement toward majority rule. We must — and will — encourage further progress.

ROLE OF THE US

Our challenge now is to build on this progress to help create the conditions which can bring an enduring peace. How can the United States best serve the cause of reconciliation and peace?

First, we will continue to do all we can together with our British colleagues in support of efforts toward a peaceful solution. We have consulted closely with the new British Government and will do so on a continuing basis. The British Government is now engaged in broad consultations in the region to explore ways of enhancing the prospects for peace and international acceptance and will be sharing this information with us.

Second, we will seek to preserve our ability to communicate, and work for peace, with all the parties to the conflict. In this context, a member of our Embassy in South Africa will make periodic, extended, visits to Salisbury, and will cooperate with the British emissary who is making similar visits.

Third, as we have previously said, we would support any peace agreement which the parties themselves might reach — whether it is based on open, impartially supervised elections or on some other form of political accommodation.

Finally, as the President has said, we will keep the sanctions question under constant review in light of progress toward a wider political process and more legitimate and genuine majority rule.

As many observers have noted, it is too early to tell whether the new arrangement will bring greater progress toward full equality of political rights and truly representative government, or perpetuate disproportionate minority control; whether it will produce significantly greater opportunity for all citizens, or preserve economic and social inequities; whether it will produce new, serious efforts at accommodation with opposition parties, both external and internal, or bring heightened military confrontation.

It is not for us to prescribe the precise form progress might take. That is for the people of Zimbabwe Rhodesia to decide. But, unless Salisbury makes a genuine effort in these directions, the military conflict will continue. We believe that African states would lend their full support to efforts toward political reconciliation.

At the same time, we believe the African states and the international community would agree that no party should be allowed a veto over a fair political solution. No party will be allowed a veto over our own policies. We would give our full support to fair arrangements and to genuine efforts toward political accommodation, even if some parties refused to cooperate.

The course we propose recognizes that progress has been made, encourages further progress, and at the same time allows us to continue to work with all the parties toward a peaceful settlement. We believe this position best serves our interests in the region, on the continent, and in the international community. For our primary national interest in the region is in a peaceful settlement.

Growing conflict would bear a heavy human toll. It would radicalize the situation further. It would deepen divisions within the country and throughout the region. And it would create greater opportunities for outside intervention. Progress has been made in Salisbury. But without further progress and accommodation, there will not be peace.

EFFECTS OF A PREMATURE LIFTING OF SANCTIONS

Premature lifting of sanctions would have several effects.

First, lifting Rhodesian sanctions now could undermine the position of the internationally recognized legal authority there — Great Britain. We should not prejudge or undercut current British efforts. We should not rush to lift sanctions or endorse the Salisbury arrangements at a time when Britain is withholding such actions and exploring means by which the prospects for

further progress and a settlement can be improved. The situation could evolve significantly in the coming months. We should not discourage that evolution by effectively saying to Salisbury that its current arrangements have our support and need not be altered — and saying to the African nations that we no longer seek a fair settlement. As the President has noted, no other nation has recognized the new authorities in Salisbury.

The British position continues to be central. They are recognized by the international community as retaining legal sovereignty. They will be addressing this issue at the Commonwealth Conference in Lusaka, Zambia, in August. They must make their decision on the future of sanctions when the orders in council come up for review in November. We should recognize the difficult issues they face and refrain from any actions which will complicate their ability to deal with this problem.

Second, such an action would diminish the chances for a peaceful settlement. By giving the appearance of siding with Salisbury, our ability to work for a negotiated solution would be severely limited. We would encourage Salisbury to expect further American support and assistance in the military struggle. And we would harden the view of the external forces that their only option was a military one.

Third, a unilateral lifting of sanctions now would undermine the significant progress we have made in improving our relations throughout Africa in the past 21 or 22 years. That progress has been due largely to our efforts to help avoid racial conflict and growing instability in Southern Africa through peaceful accommodation based on majority rule. To abandon that effort now would inevitably diminish our standing and our influence among Africans and indeed in many parts of the Third World.

We must clearly recognize that our relations with African and other developing nations are increasingly important to us. We have important economic interests in good ties. And the political significance of these nations to us is growing as well. African unwillingness to cooperate with the radical Arabs in their effort to discredit Egypt, for example, has been, and will continue to be, important. A recent example of this is the number of African governments which opposed efforts to suspend Egypt and Israel from the World Health Organization and Egypt from the nonaligned conference to be held in September.

Fourth, we would be giving others new opportunities to expand their influence in Africa at our expense. Concerned African nations want peace, and they have supported our negotiating efforts. But if they conclude that we have abandoned the goal of fair majority rule in Southern Africa, they may turn

increasingly to others in search of material and moral support for a military solution to the Rhodesian conflict and for protection of their territory from the expanding conflict. An East-West polarization in Africa could not only hurt us; it would hurt our allies whose relationships throughout the continent are linked to ours. Indeed, many of our friends have expressed this concern to us.

Finally, to be satisfied that the progress already made in Zimbabwe Rhodesia is sufficient would, in my judgment, represent a retreat from the principles of racial justice which we have strived to achieve in our own country. To have one standard of racial justice at home and another abroad is to deny our common humanity. We would tarnish our image abroad and divide ourselves at home.

We need not invite these results. We have fashioned a course which affirms our own law, including the Case-Javits amendment, at the same time that it respects our obligations as a member of the world community. It is a course which is faithful to our principles as well as to our national interests.

Elections have been held in Zimbabwe Rhodesia. Almost every observer, of any ideology, has drawn the same overriding message from that event. The Rhodesian people want peace.

Let us respect that central result. Let us maintain our ability to work for reconciliation. Let us pursue our national interests, in recognition both of new realities in Zimbabwe Rhodesia and of the continuing compelling cause of peace.

United States Department of State. Bureau of Public Affairs. *Current Policy* No. 70.

C. Statement by the United Kingdom Foreign Secretary, Lord Carrington, in the House of Lords on 10 July 1979

My Lords, although we spent some time on the problems of Rhodesia in the Debate on the Address this is the first occasion in the new Parliament on which it has been possible for your Lordships to concentrate exclusively on the new situation which has arisen as a result of the elections in Rhodesia and the developments which have since taken place.

I welcome the opportunity to make a speech this afternoon explaining the Government's thinking and also of hearing what your Lordships, many of whom have first hand experience of the problem, will have to say. There are many other pressing issues in the international field — the Middle East situation, our relations with the EEC and in particular the problems of the

Community budget: the situation in Indo-China: the Vietnamese refugees: all these in themselves are worthy of debate. But we have a constitutional responsibility for Rhodesia and it is right that we should pay particular attention to it.

I sometimes think it very curious that so many of our friends and neighbours in the outside world seem to ignore the efforts made by successive British Governments to settle this issue in a fair and impartial fashion. In their criticisms they seem to pay little attention to what successive British Governments have sought to do. Over the last 13 or 14 years there has hardly been a year in which the British Government have not taken some initiative.

Yet in reading some of the more extravagant comments from abroad one would suppose that in these years the British Government have made no effort to bring the parties together, nor sought a fair and just solution. But, my Lords, it is certainly not for want of trying that we have not achieved a settlement. I suppose the most difficult and intransigent issue over the years has been the fact that in Rhodesia three per cent of the population held all the political power and it was on the reluctance of the white population to accept a transfer of power that most (not all) of the proposals foundered. But that is no longer the situation today. We are facing a new situation in Rhodesia which demonstrates progress of a kind and on a scale which would have been unthinkable a few years ago.

Memories seem to be very short. Let no one underestimate the progress which has been made nor seek to minimise what has been achieved in Rhodesia in the last 15 months. Let us begin, therefore, by recognising that there is a new situation and let us take advantage of it in shaping our policy.

In the Government's view, the elections which took place in Rhodesia in April and which led to the formation at the end of May, under Bishop Muzorewa, of a new Government, have changed the situation fundamentally. There is an African majority in the Rhodesian Parliament and an African majority in the Government. What is more, this new Government has come to power as the result of elections in which most of the population of Rhodesia were for the first time able to participate. The elections took place in difficult circumstances; attempts were made to disrupt them, but they did not succeed. Attempts have also been made to discount their significance; but very nearly all those who witnessed the Rhodesian elections were impressed by the manner in which they were conducted and by the evidence of extensive popular support for Bishop Muzorewa.

I have already placed in the library copies of the report by my

Noble Friend Lord Boyd of Merton on the elections. I thank him again for undertaking that task and for his very full and dispassionate report. It is true that a very few observers, including one Noble Lord, Lord Chitnis, took a different view; but the majority of the observers present at the elections, and of the press who were also present, took a view similar to that of my Noble Friend Lord Boyd.

There has been a disposition in some sections of the international community to seek to ignore the changes which have taken place in Rhodesia and to argue that Bishop Muzorewa and his Government should be treated in the same way as the previous Government of Mr Smith.

My Lords, I do not share that view. It was not Bishop Muzorewa who made the unilateral declaration of independence. He has campaigned for many years for majority rule in Rhodesia. He needs our help and encouragement if he is to demonstrate that a fundamental change has taken place in Salisbury; that a new Government with new policies is in control and that — as we believe to be the case — Rhodesia is now embarked on the road to a multi-racial society. So the Government's first step was to establish close contacts with the new Government in Rhodesia, and its leader. We had to make arrangements to keep ourselves informed of what was happening in Salisbury and to be able, too, to keep in touch with Bishop Muzorewa and his Government and with the other leaders in Rhodesia.

To this end I asked Mr Derek Day, an Under-Secretary in the Foreign and Commonwealth Office, to maintain and develop the closest possible contact with Bishop Muzorewa and his colleagues and to report to me, travelling between London and Salisbury as was necessary. Mr Day left for Salisbury at the end of May; he returned to London on 22 June and has been back in Salisbury since the beginning of July. During his time in Salisbury he has had several meetings with Bishop Muzorewa and has had several meetings with other Ministers; indeed with virtually all the senior members of the new Administration and its senior officials. His reports have kept me directly in touch with the situation. I believe that his presence in Salisbury has made an important contribution towards assuring Bishop Muzorewa of our desire to work with him and to discuss the way forward with him and his colleagues. I believe that the British Government now has closer contact and is in a better position to influence events in Rhodesia than at any time since UDI.

But, whatever view we in this House, or in this country, may take about what has happened in Rhodesia, elsewhere in Africa and among Rhodesia's neighbour's different views are held as to

whether there has been a real transfer of power from the minority to the majority. We cannot, nor would we wish to, ignore these views.

We clearly attach great importance to our relations with Africa and with the Commonwealth. We attach no less importance to doing all we can to bring about a situation in Rhodesia in which that country is able to live at peace with its neighbours. For it is only by that means that we can hope to win the greatest prize of all for Rhodesia and for the peoples also of the neighbouring countries: that prize is a peaceful settlement and an end to the war.

The Government therefore decided, as your Lordships are aware, to appoint a senior political figure to visit Africa for consultations with the Governments principally concerned. My Noble Friend Lord Harlech agreed to carry out this task, and I would like to say how grateful I am to him for doing so. He has done it with much skill and at considerable personal inconvenience. He has held discussions with the Presidents of Zambia, Tanzania, Botswana, Malawi and Angola; with the Mozambique Government and with the Federal Military Government in Nigeria.

In addition, Mr Luce has held discussions with other governments in West Africa. Lord Harlech has also discussed the situation with representatives of the two wings of the Patriotic Front in Maputo and Lusaka. His purpose was to consider with African leaders how we could best make progress towards the objective of restoring Rhodesia to legality with the widest possible acceptance. I am glad to say that the talks Lord Harlech held with African leaders were, in my judgment, very useful. My Noble Friend explained the British Government's view that there has been a fundamental change in the situation in Rhodesia. He found in Africa an encouraging recognition that major changes had taken place. He also found, however, a widespread feeling that a solution must stem from the British Government, as the legally responsible authority. There was also criticism of the Rhodesian Constitution, in particular of the blocking power given to the white minority over a wide range of legislation, and also of the character of the Public Service Commissions.

The next step was for my Noble Friend to visit Salisbury. He saw Bishop Muzorewa and his colleagues and was able to explain to them the views and attitudes of the African Presidents and the representatives of the Patriotic Front. He assured the Bishop of the goodwill towards him which exists in this country and our conviction that the present situation gives us the opportunity to work with him for a lasting and generally acceptable settlement.

As the House will be aware, Bishop Muzorewa will be visiting London to continue these discussions with my Right Honourable Friend the Prime Minister and myself later this week.

I hope I have no need to emphasise that the consultations on which we are engaged with all those concerned are genuine consultations. They are genuine because we are convinced that they are essential if we are to achieve our objective. There is a savage and cruel war going on in Rhodesia, and our aim must be to try to contribute to a more secure future for its people. The most effective way in which we can make such a contribution is to try to bring Rhodesia to legal independence in such a way as to win the widest possible international acceptance. If that can be done, there is every chance that the great majority of the people of Rhodesia will be convinced that the objectives for which they have been struggling for so many years have been achieved.

As I have made clear, on a number of occasions, the Government's approach throughout has been guided by the following considerations:

First of all, we stand by our commitments: we intend to carry out our constitutional responsibilities. We must try to stop the war and help to create conditions of greater stability: that is the greatest service we can render to the people of Rhodesia, both black and white. We have therefore also been discussing the problem and our approach to it with our friends in Europe, with the United States' Government, and with other Commonwealth and African Governments, and those consultations will continue.

In the course of deciding on our policy, we attach particular importance to the discussions which will be held at the Commonwealth Heads of Governments' Meeting in Lusaka in the first week of August, for the Rhodesian problem is a matter of concern to the entire Commonwealth, and I am sure that the House will agree that it is right — and indeed essential in the interests of the people of Rhodesia — to proceed with the fullest possible consultation.

But I must also emphasise that it is Britain which has the responsibility to find a proper basis on which to bring Rhodesia to legal independence. That responsibility indeed is recognised by the rest of the international community, many of whom have lost no opportunity on many occasions to remind us of it. It is recognised in successive resolutions of the United Nations Security Council and Lord Harlech found in the course of his consultations in Africa, a general recognition and indeed even a demand that a solution must spring from us, as the legally responsible authority.

Our responsibility in relation to Rhodesia is two-fold. We have

the moral responsibility to secure the best future we can for the country which is linked to us by so many historical ties. We have a constitutional responsibility to achieve a proper basis for independence. The Government have not yet come to final conclusions about the proposals we intend to make in fulfilment of that responsibility. It would be wrong for us to do so until we have completed the process of consultation and, as I have said, we shall be seeing Bishop Muzorewa and we shall have consultations at the Lusaka Conference.

But it is the Government's intention, when our consultations have been completed, to make firm proposals of our own, stemming from the British Government as the constitutionally responsible authority, to bring Rhodesia to legal independence on a basis which we believe should be acceptable to the international community. It would not be right for me to anticipate at this stage the form that these proposals will take.

As I say, we shall be seeing Bishop Muzorewa and others. But the results of our consultations so far encourage me to believe that it will be possible, once they are complete, to put forward proposals which will be accepted as fair and reasonable. They will take account of what has been achieved in Rhodesia. They will I hope, be comparable with the terms on which we have granted independence to other countries in the Commonwealth. That is what the Government are seeking to achieve, and the House should be in no doubt of our determination to take advantage of the opportunity which now offers itself to achieve a solution.

I hope that I have said enough to make clear that the Government intend to discharge their responsibilities. No purpose will be served by undue delay. There is no reason to suppose that there will be a better chance of securing a solution next year or the year after that. Much has been achieved already, in particular the change of political attitudes in Rhodesia. Our concern should be to help Rhodesia attain independence in conditions in which a genuinely multi-racial society can prosper. This must involve a serious attempt to win the widest possible international recognition, for that is the way in which we can make the most effective contribution to the prospects for a more secure and peaceful future for the people of Rhodesia and of the neighbouring countries.

D. Statement by the Zimbabwe Rhodesian Deputy Prime Minister, Dr S. Mundawarara, on 11 July 1979

Members of the Executive Council of the Government of Zimbabwe Rhodesia, meeting in Cabinet today, endorsed remarks made in Washington by the Prime Minister, Bishop the Hon. A.T. Muzorewa, regarding the future role played by Whites in the government of this country.

The Prime Minister has rejected suggestions that he oust some of the Whites from his Cabinet as a means of winning United States and British support.

Cabinet fully agrees with the Prime Minister's statement: "I don't have to take any further steps. I have done all that is needed to be done. Countries that threw them (Whites) out are literally starving to death. I don't want to repeat that."

There is no question of changes being made to the Constitution and the fact that the British Foreign Secretary, Lord Carrington, has gone public by calling for this in the House of Lords is a matter to be deplored. African states have often been accused of tearing up their Constitutions after independence and this would appear to be precisely what we are being asked to do.

For the British Government to say it wants changes to the Zimbabwe Rhodesia Constitution in order to obtain support from other countries in its bid to grant this country recognition, implies an unrealistic approach to the situation. It would appear Lord Carrington's intention is to lower the morale of the people in this country.

Cabinet fully supports the Prime Minister's declaration that the expertise of the Whites is recognised and that they are not expatriates, but are Zimbabwe Rhodesians who have a necessary and vital role to play in building this country into a stable and prosperous nation once international recognition has been achieved.

Government is conscious that most Whites have ties with the country going back several generations, and that they have an equal stake in Zimbabwe Rhodesia's future.

Even if we were to change the Constitution there is no guarantee it would meet with their demands because it appears they want changes only in order to satisfy their friends.

E. Statement by the Zimbabwe Rhodesian Prime Minister, Bishop Abel Muzorewa, at a press conference on 28 July 1979

As you are aware, the Commonwealth Heads of Government Conference takes place next week in neighbouring Zambia. You are also aware that I shall not be present in Lusaka, neither will Zimbabwe Rhodesia be represented at the talks. At the same time, we can be sure that I and my Government will be condemned by some of the representatives of the countries attending the Conference, particularly those from other parts of Africa, for Zimbabwe Rhodesia will undoubtedly be the central issue.

Since I shall not be allowed to put this country's case in person during the deliberations in Lusaka, I am taking this opportunity to place before you some of the points I would have made had I been invited to attend.

I would have told the Conference that Zimbabwe Rhodesia is a unique miracle which, instead of receiving denunciation and condemnation by certain countries, ought to arouse admiration and acclaim throughout the world.

It is absolute insanity for people, whoever or wherever they may be, to continue to denounce or isolate this country for the reasons they did in the past. These reasons have absolutely no bearing on the present situation here. The white racist minority Government, and all the iniquitous racialistic legislation, are things of the past.

They no longer exist in Zimbabwe Rhodesia, they have gone forever. UDI of 1965 was swept away in 1979 and replaced by true freedom and independence through the will of the people of this country. Exercising, for the first time, their birthright of one person one vote, the people brought into being our popularly elected Government.

I would have reminded the delegates that despite the fact that we were told that the elections would never take place, and that under potentially lethal conditions, 64,8 per cent of our population, in the clearest possible manner, determined the path their country should follow in the future. Our people were dangerously brave to vote under threat of death pronounced by terrorists. I would have pointed out just how far we have travelled along this road in the short space of eight weeks during which our black majority Government has been in power.

I would have presented facts, ladies and gentlemen, facts making this abundantly clear, as I do now to you.

Our Parliament which previously consisted of 50 Whites and

only 16 Blacks, now has 72 black and 28 white members. We have a black President and a black Prime Minister, whereas previously both these high posts were held by Whites. The Executive Council or Cabinet of the pre-1978 Smith Government did not have a single black minister. Today, our Government of national unity caters for 14 black and only 5 white ministers. My office — that of Prime Minister — in the past 100 per cent white, is now 99 per cent black.

The Police and Defence Commissions, which were also 100 per cent white, are 50 per cent black. Furthermore, as Minister of Combined Operations and Minister of Defence, I have executive control and ultimate authority over all military matters. The military commanders operate under my direct policy directives. Their loyalty to me personally, and to the state, is beyond question.

Similarly, the Minister of Law and Order, Mr Francis Zindoga, holds executive powers over the Police. At the same time, he controls all systems of justice and the civil service. Their loyalty and dedication are equally assured. The Army is already 85 per cent black and the Police consist of 75 per cent black personnel.

If my generals and commanders are white, I would ask how is it possible to produce black ones within eight weeks of taking over government? I would point out that Nkomo and Mugabe, Nkomo in particular, have had to go to the communist countries to get their generals, who are just as white as mine. The only difference is that those who serve me are free men, the same as the troops and police they lead. They are not commissars sent to watch over their men making sure they keep in line, following a doctrine with the one objective of trying to overthrow our popularly elected black majority Government and impose Marxism on our free land. What is more, they will not allow our people who are outside to return as they now wish to. (Just as the East Germans will not allow people to go to free West Germany.) They keep them in what are no more than prison camps, under pain of torture and death if they even mention returning home to enjoy with us our hard won freedom and promising stability and prosperity.

My final appeal would be to that wonderful, great daughter of Britain, Mrs Thatcher, to continue to show her courage, as she has done so far, to do what is right, even though I know she has a world of appeasement, hostility and indifference disrupting her.

The Land Tenure Act, and all racialistic segregation laws, have been removed from the statute book through the abolition

of the 1969 Constitution. Equalisation of the various sections of our society is now rapidly taking place. I believe that we are working towards positive change at a reasonable and acceptable speed.

I have no doubt that our new Constitution will be criticised as imperfect by those unenlightened and misguided delegates. In reply, I would have pointed out that it was drafted and agreed upon by both black and white members of the four parties to the March 3 Agreement of 1978.¹ I have yet to see any Constitution which was perfect when first introduced, or which has even reached a state of perfection. We will be criticised for allowing the Whites 28 seats in Parliament and accused of giving them too much influence and power.

My answers would have been simple. The Whites of this country are not tourists, visitors or expatriates. They are citizens by birth, some going back to the fifth generation. They should, in fact, be properly termed as white Africans. Whatever they produce, and whatever contribution they make, is for the benefit of all the people, not only for themselves. The concessions we have given them, at least for the initial crucial stage of any country's development, is a small price to pay to retain their skills and expertise. They are indispensable if Zimbabwe Rhodesia is to flourish and fulfill its tremendous economic, industrial, mining and agricultural potential.

On the question of the Public Service, I would have made it clear that it has traditionally evolved from within the country, and is staffed by Zimbabwe Rhodesians of all races. Unlike most pre-independence African countries, it is not a system imported from, and imposed from, outside.

I would have compared what we are attempting to do here with what has happened elsewhere in Africa, where after independence emotions took over from reason and logic, where the position of Whites was made untenable, where there was wholesale indiscriminate nationalisation without thought being given to the effect, where countries which were rich and prosperous at the time of handing over are now poor and impoverished, where they indulge in Africanisation for the sake of it with complete disregard to realism and pragmatism. Independent they may be, but it is paper independence. They now rely on charitable handouts and go round with their begging bowls to keep their countries running. Their expertise comes from fly-by-night expatriates — people with no stake in the country, and less interest. People from all over the world who go there as economic mercenaries and end up fattening their own pockets, leaving

1. See *Southern Africa Record*, no. 12, May 1978. pp. 13-18

the countries they are supposed to serve bankrupt. I would have pointed out that I have not the slightest intention of allowing Zimbabwe Rhodesia to follow such a road to economic destruction. Rather, do I intend to take the path which will lead us to prosperity and even affluence based on a course of reason, realism and pragmatism, as I have made clear on many previous occasions.

I would have asked the representatives of the more enlightened and realistic Commonwealth Governments to take a close look at the hypocrisy and double standards practised by the vast majority of their African counterparts and other members of the OAU. Take Mocambique, for example. It is entirely dependent upon its declared enemy, South Africa, for the operation of its railways and ports, the mainstay of its economy. Similarly, most of what little food there is to feed its starving population comes from the same source. In Mocambique, one of our severest critics, they have in their Council of 17 Ministers, 9 Blacks, 3 Whites, 2 Goanese and 3 of mixed blood.

I would have told them that while I couldn't claim that without our help, and that of South Africa, the Conference wouldn't have been held, I could claim with some justification that their comfort would have been greatly impaired without our co-operation. The motor-cars they ride in, the specially imported luxury items they eat and drink, have all reached Lusaka through the courtesy of my Government and Zimbabwe Rhodesia Railways. This even applies to the special carpet Her Majesty Queen Elizabeth walks upon. All these came from South Africa, the country which is the sworn enemy of host President Kaunda.

At the same time, we hear all sorts of bleatings from the other African states over Zimbabwe Rhodesia's economic and trade ties with South Africa. These are even used as a reason for maintaining sanctions against us and the refusal of international recognition. I would have asked the Conference to face facts — that many of the African countries who sit in judgement and denounce us for openly trading with South Africa are themselves doing the same thing. The only difference is that while we carry on our business as honest men in daylight, they do their's in the dark of night.

I have no doubt that even if the Patriotic Front does not participate in the Conference formally, it will feature prominently in the wings, prompting its OAU sponsors. Great play will be made of allegations that we have not tried to negotiate with, or accommodate them.

Of course, it would be evil lies. It would have given me the utmost pleasure to have provided the truth. Joshua Nkomo and

Robert Mugabe were continually invited to participate in the Transitional Government. In fact, two empty seats were kept for them in the Executive Council.

We agreed to an all-party conference without preconditions. They refused both of these approaches. The Patriotic Front was invited to participate in the drafting of the new Constitution and to take part in the elections. Again they declined. The British Labour Party Government was invited to participate in the drafting of our Constitution, but because their darling, Nkomo, was not participating, they did not. As a result, we had no alternative but to go ahead with our democratic plans. Through these we have effected a peaceful and reconciliatory transfer of power from white minority to black majority rule.

Since then, I have contacted Mr Nkomo and Mr Mugabe in writing, under the spirit of the amnesty I have declared. I made it clear that they, and all their followers, are completely free to return home in safety, without fear of arrest, imprisonment, torture or death. I declared to them my honest intention of entering into dialogue with them and anyone truly and sincerely interested in following the same course as my Government, seeking peace for this country and our people.

Immediately after our elections, and prior to the establishment of my popularly elected Government, I communicated with the leaders of the frontline states in a spirit of reconciliation. I pointed out to them that it was our earnest desire to live in peace, harmony and friendship with every other nation, on the basis of mutual respect and economic co-operation.

I put to them far-reaching proposals for a normalisation of the situation between our governments, our peoples and our countries. I informed them that I was open to any suggestions they might care to make to achieve these objectives. I would have to tell the Commonwealth Conference that I had received no response from the Patriotic Front or from the Presidents of Zambia, Tanzania, Mocambique or Botswana. The only implied response was the discovery by my intelligence staff of plans to escalate the war. We have even proved, without surprise, the emptiness of Mr Nkomo's so-called cease-fire during the period of the Conference.

I would have said in Lusaka that after all we have achieved, and what we are attempting to do, international recognition is withheld and sanctions are maintained against us. I would have asked in all sincerity where is the justice, where the morality in this situation? By comparison, elsewhere in Africa coup is followed by counter-coup and the latest military usurper is recognised by the free world, even while he is busy executing his predecessor.

I would have made the point that had I followed such a course I would have been automatically recognised and sanctions would have been lifted within 24 hours. I would have asked the free world if they honestly believe they are helping Africa by encouraging her by implication to have governments installed by coups rather than by democratic exercises with high percentage polls like 65 per cent.

It would have been a simple one. Can you tell me where else in Africa is true democracy practised as it is in Zimbabwe Rhodesia? How many countries are there left on this continent where the word democracy is even remembered, let alone where its principles are followed? Yet, these are the same countries that point the finger at me, and at us, calling us puppets. If it is a puppet to be the democratic choice of the vast majority of the people in a free, honest, truthful, impartial and fair election, then a puppet I am, and so are all other leaders who are popularly and democratically elected to power.

I wonder how many rulers in the other African states enjoy the same popular following that I do? Perhaps one, or three, to give benefit of doubt. Yet, that majority of despots is allowed veto over my democracy.

My final word to the Commonwealth leaders would be an earnest appeal for sanity, reason and honesty in accepting our democratic right to international recognition and the raising of sanctions which would assist us in stopping the war and allow us to progress in peace and harmony to prosperity.

I would ask them not to continue with their cheap, naked, hypocritical and expedient politics designed to frustrate the true aspirations of the free peoples of Zimbabwe Rhodesia, who have decided to create a non-racial society next to none in the world. I would ask them to search their souls and do what is right in the eyes of God, for I am convinced that deep in their hearts — including those who regard themselves as our enemies — they know that our cause is just. For they, our enemies, know deep in their consciences that they are no longer fighting for justice or against UDI but only to save their personal friends. They are no longer fighting for majority rule, but for being kingmakers of their personal friends.

F. Extracts concerning Zimbabwe Rhodesia from the final communique of the Commonwealth Conference in Lusaka, August 1979

SOUTHERN AFRICA

14. Heads of Government had a frank discussion on the current problems of Southern Africa and their implications for the Commonwealth and the wider international community, while recognising that certain developments since their meeting in London have added new dimensions, they remained concerned by the potential dangers inherent in the existing situation. They therefore stressed the urgent need for finding satisfactory solutions to the remaining problems of this region.
15. In relation to the situation in Rhodesia, Heads of Government therefore:
 - A. Confirmed that they were wholly committed to genuine black majority rule for the people of Zimbabwe;
 - B. Recognised, in this context, that the internal settlement constitution is defective in certain important respects;
 - C. Fully accepted that it is the constitutional responsibility of the British Government to grant legal independence to Zimbabwe on the basis of majority rule;
 - D. Recognised that the search for a lasting settlement must involve all parties to the conflict;
 - E. Were deeply conscious of the urgent need to achieve such a settlement and bring peace to the people of Zimbabwe and their neighbours;
 - F. Accepted that independence on the basis of majority rule requires the adoption of a democratic constitution including appropriate safeguards for minorities;
 - G. Acknowledged that the Government formed under such an independence constitution must be chosen through free and fair elections properly supervised under British Government authority, and with Commonwealth observers;
 - H. Welcomed the British Government's indication that an appropriate procedure for advancing towards these objectives would be for them to call a constitutional conference to which all parties would be invited; and
 - I. Consequently, accepted that it must be a major objective to bring about a cessation of hostilities and an end to sanctions as part of the process of implementation of a lasting settlement.

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21. Meeting for the first time in full session in Africa, Heads of Government paid tribute to the outstanding contribution of African countries in general and African Commonwealth countries in particular, to the development of a more humanitarian international community and to the evolution of the Commonwealth along relevant and enlightened lines. They paid special tribute to the front-line states and to Nigeria for their active support to the various initiatives seeking negotiated solutions to the problems of Rhodesia and Namibia.
 22. Heads of Government expressed satisfaction at the effective manner in which the Commonwealth Committee on Southern Africa had discharged its responsibilities in the past two years. Having considered its report, Heads of Government endorsed those recommendations which were put forward unanimously. They authorised the Committee to continue its work, and to intensify its collaboration with the United Nations on all questions of mutual concern and interest.
 23. In endorsing the recommendations of the Commonwealth Committee on Southern Africa regarding Commonwealth humanitarian assistance to Southern Africa, Heads of Government noted with approval the contribution to the Commonwealth, made both bilaterally and multilaterally, to international assistance for manpower development for Zimbabwe and Namibia. In this context, Heads of Government commended the Secretariat's assistance programmes as cost-effective and efficiently administered and agreed that they should be expanded in scope subject to the availability of resources.
 24. Heads of Government noted with concern that as the conflict has escalated in Zimbabwe, its effects have increasingly spilled over into the neighbouring Commonwealth states of Botswana and Zambia as well as into Mozambique. The meeting called on the international community to increase its assistance to the front-line states in order to alleviate the damage to their development caused by the persistent problems of Southern Africa. Heads of Government, noting with approval the technical assistance programme financed by the Commonwealth fund for Mozambique would welcome continued Commonwealth assistance agreed that the fund should continue to remain available to member governments as a channel for such assistance. The meeting concluded that, while significant bilateral and multilateral assistance is already being provided to the front-line states

and Southern Africa to which individual Commonwealth countries make an important contribution, the needs of the region justify further international assistance on a substantial scale, against the background of a collective Commonwealth commitment and in response to the requests of member governments. The Secretary-General was asked to supplement the activities of other international agencies by assisting in contingency planning including regional studies in anticipation of the emergence of independent and internationally accepted governments in Zimbabwe and Namibia.

Text issued by the British Information Services, Johannesburg.

G. Statement on the Commonwealth Conference communique by the Zimbabwe Rhodesian Prime Minister, Bishop Abel Muzorewa, on 6 August 1979

What has emerged from the Commonwealth Conference in Lusaka, so far as Zimbabwe Rhodesia is concerned, are some positive elements and some which still require further substantial clarification.

A pleasing factor is that at last the Commonwealth leaders as a whole have accepted the reality of the situation which now exists in this country and acknowledge that substantial changes have taken place. I now expect the British Government to emphasise to the other members of the Commonwealth, and the international community as a whole, this new reality of a black majority Government in Zimbabwe Rhodesia much more positively than it has done previously.

Also, another factor is that now everyone is in agreement with me and accords with my amnesty policy that continued bloodshed must cease, and I hope that the British Government and other Commonwealth leaders will ensure that attacks from outside Zimbabwe Rhodesia will come to an end.

Insofar as the British Government's agreement to supervise fresh elections is concerned, the point must be made that the majority of international observers, including the group from the British Conservative Party led by Lord Boyd, sent here specifically by Mrs Thatcher, were completely satisfied that the elections held in April were free and fair as well as being conducted under democratic principles.

It is therefore totally unfair and, in fact, an insult to the electorate and the Government of this country, to suggest that they

meant absolutely nothing, and that we have to start all over again.

If it is accepted that a new reality and new circumstances exist in Zimbabwe Rhodesia, it must also be accepted that these have been brought about solely as a consequence of the universal adult suffrage elections and our own efforts which installed a black majority Government in power for the first time. They cannot have it both ways. I hope, therefore, that the British Government, which holds responsibility for ensuring that further progress will be achieved towards solving our problems, will display sanity in this regard and that it will prevail.

There are many other points from the Lusaka statement which need to be clarified by the British Government, and I look forward to receiving this as a matter of urgency. Until that Government has done so in detail, it would be premature for me to comment upon them, and it will be my intention to deal with specific items in the proposals as and when they are put before me in detail.

In conclusion, I would like to assure all the people of Zimbabwe Rhodesia that the interests of this country and its people are paramount, and I will only consider those proposals which I am satisfied will serve this purpose.

Text issued by the Zimbabwe Rhodesia Department of Information.

H. Address by the United Kingdom Foreign Secretary, Lord Carrington, at the opening of the Rhodesia Constitutional Conference at Lancaster House on 10 September 1979

REASON FOR CONVENING CONFERENCE

It gives me great pleasure to welcome you to this conference and to open its proceedings.

When the British Government issued invitations to this Conference on 14 August, after extensive consultations, we naturally hoped for and expected a positive response. Our consultations had revealed a strong desire that the United Kingdom should take the initiative in making a further attempt to achieve a final settlement of the problem of Rhodesia, in fulfilment of its constitutional responsibilities. There was also a widespread feeling that continuation of intensification of the war was not in the best interests of any of the parties to the dispute, nor of the people of Rhodesia as a whole. Nevertheless, it is no simple matter for those who have been involved in a bitter and tragic military con-

frontation to sit round a conference table together. The British Government felt strongly that it had the responsibility to bring that about.

When inviting you here, we appealed to you, in the interests of the people of Rhodesia, to approach these negotiations in a positive spirit and to seek to build up areas of agreement. We hope thereby to lay the foundations for a free, independent and democratic society in which all the people of Rhodesia, irrespective of their race or political beliefs, would be able to live in security and at peace with each other and with their neighbours. The act of coming together is important. It is now up to us to build on that.

SIMILARITY WITH OTHER CONSTITUTIONAL CONFERENCES

Since 1965, and long before, many meetings have been held to try to resolve this problem. I am under no illusions about the magnitude of the task before us. The problem is one which has defeated the efforts of successive British Governments, all of whom sought to achieve the objective of a peaceful settlement in conditions which would guarantee to the people of Rhodesia the full enjoyment of their rights. But I have no intention of going back over the history of those attempts, and I hope that you will also be prepared to look at the future rather than the past.

I would like to hope that there is a difference between this meeting and those which have preceded it. This is a constitutional conference, the purpose of which is to decide the proper basis for the granting of legal independence to the people of Rhodesia.

Many such constitutional conferences have been held in this place before. A great many former dependent territories of the United Kingdom have successfully made the transition to independent statehood on the basis of constitutions agreed here. It is our intention to approach this conference on the basis of the same principles and with no less strong a determination to succeed than in the case of those other conferences which resulted in the granting of independence by this country to our former dependent territories. I believe that we can take some pride in the part we have played at conferences held at Lancaster House in the process of decolonisation. As Commonwealth leaders agreed at Lusaka, Britain has had no lack of experience as a decolonising power.

COMMONWEALTH AGREEMENT IN LUSAKA

The agreement reached at Lusaka has made it possible for the British Government to convene this conference with the very real hope that it will lead to an internationally acceptable settlement. I would like to pay tribute to the Commonwealth Heads of Government and the Commonwealth Secretary-General, who worked so hard at Lusaka to establish an agreed position. In summary, the Commonwealth Heads of Government at Lusaka confirmed that they were wholly committed to genuine majority rule for the people of Rhodesia, and accepted that this requires the adoption of a democratic constitution including appropriate safeguards for minorities. They reiterated that it is the responsibility of the British Government to grant legal independence to Rhodesia. They agreed that the government formed under the independence constitution must be chosen through free and fair elections, properly supervised under British Government authority, and with Commonwealth observers. They welcomed the British Government's intention to convene this conference, and recognised that the search for a settlement must involve all parties to the conflict. We should do well to bear in mind throughout our discussions, the framework thus set out in the Lusaka communique. Not only does it incorporate the views of the British Government, but it sets out the approach which the Commonwealth will support and which will gain international acceptance.

NEED FOR COMPROMISE AND END TO WAR

Against this background I approach the search for a fair constitutional settlement in Rhodesia with the conviction that it is illusory to think that any settlement can fully satisfy the requirements of either side. An agreement can only be reached if there is a willingness to compromise.

The British Government has put to you an outline of the kind of constitution on the basis of which we would be prepared to grant independence. We wish to discuss these proposals with you at this conference, and will be prepared to elaborate on them in the light of our discussions. If we can reach agreement at this conference, there will be an end to the war. That is an outcome which I believe will be greeted with immense relief by the people of Rhodesia and throughout Africa. Rhodesia will proceed to legal independence with a government formed by whichever party and whichever leader can show that they command the confidence of the people. I must confess that I find it

difficult to see how any party, group or leader can hope to benefit from what would follow failure to reach agreement along the general lines we have put before you, and those who would suffer most would be the people of Rhodesia, towards whom our real responsibility lies.

A quarter of the population of Rhodesia has been born since 1965. Their lives have been overshadowed, not merely by a tragic and unnecessary political dispute, but by armed conflict. Many of them have died as innocent victims of the war, or they have lost their parents, brothers or sisters, or they have lost their homes. Many of them, black and white, face the prospect of themselves having to fight, on one side or another, or of being deprived indefinitely of peaceful residence in the land of their birth — a quarter of a million people are now in refugee camps in other countries — if we, who are assembled in this room cannot agree on the way to end the fighting and to provide for you to settle your differences by political means.

This generation now at risk had no part in the initial causes of the conflict; it was not born when the problem of Rhodesia came to a crisis in 1965. But now there is acceptance by all the parties of a society free from racial discrimination, of universal suffrage and majority rule. We can make this objective a reality if — and only if — we are prepared to look at the problem on the basis of principles on which both sides should be able to agree.

I believe that the people assembled in this room have it in their power to end the war and to enable the people of Rhodesia to decide their future by peaceful means. We bear a heavy responsibility and I do not believe that the people of Rhodesia will readily forgive any party which deprives them of this opportunity to settle their future by peaceful means. This is a thought which should be in our minds throughout this conference.

It is a matter of great regret and disappointment to me and my colleagues that hostilities are continuing during this conference. Progress towards agreement on political issues — which I hope we are all determined to achieve — will by definition mean progress towards removing all causes of the war. It must be our objective to proceed as soon as possible to a stage at which there can be agreement on a ceasefire. We shall fall short of what we ought to achieve for the people of Rhodesia if we do not give them the chance to make a fresh start, its causes and its consequences put firmly in the past.

BRITAIN'S INVOLVEMENT

Britain has at times been described on one side as choosing to

stand with arms folded on the touchline; and on the other as not being serious in its determination to decolonise. Let me assure you today, if anyone is in doubt, that we could not be more serious in our intention to achieve a satisfactory basis for the granting of legal independence for the people of Rhodesia and in this attempt to bring about an end to the war.

We have engaged in extensive consultations on the best way of achieving these objectives. Lord Harlech visited Africa early in the life of this Government to consult with the parties to the dispute and with the Commonwealth and other African Government most closely concerned. He found a general conviction that a solution to the problem of bringing Rhodesia to legal independence must stem from Britain as the constitutionally responsible authority and that we must put forward proposals to achieve that objective. He also found that there was criticism of the present constitutional arrangements, in particular of the blocking power given to the white minority over a wide range of legislation, and of the character of the public service and other commissions.

In the period of consultations, we made it clear that we would attach particular importance to the Commonwealth Heads of Government Meeting at Lusaka. The British Prime Minister said that the British Government were wholly committed to genuine majority rule in Rhodesia. The principle of majority rule has been accepted by all the delegates to this conference. The Prime Minister, at Lusaka, also recognised the importance of encouraging the European minority to remain as an integral part of the community. The Prime Minister emphasised that Britain fully accepted its constitutional responsibility to bring Rhodesia to legal independence on a basis of justice and democracy, comparable with the arrangements we have made for the independence of other countries.

The British Government took action immediately to give effect to the Lusaka Declaration by convening this conference and by putting forward constitutional proposals in accordance with the principles which were agreed at Lusaka and which have formed the basis for other independence constitutions in Africa and elsewhere.

THE CONSTITUTION AND BRITAIN'S OUTLINE PROPOSALS

The constitution is the fundamental problem to which we must address ourselves. I am well aware that there are other aspects of a settlement which must in due course be resolved, but it is essential to the prospects of success that we should first seek

agreement on our destination — which is the independence constitution. If that can be achieved, it will be necessary to decide the arrangements to give effect to that agreement. The British Government has stated clearly that it will be prepared to accept its full share of the responsibility for the practical implementation of those arrangements. The central element will be free and fair elections, properly supervised under British Government authority.

The British Government's outline proposals for an independence constitution have been before you for four weeks. I did not suggest that this conference should be held on the basis of prior acceptance of this document, instead I would like to take the document as the starting point for our discussions. The British Government have been asked to put forward proposals and we have done so. Unless there is a focus for our discussion, it will be impossible to make progress.

There are certain general points which I could make in introducing them:

First, as the constitutional authority for Southern Rhodesia, the United Kingdom intends to take direct responsibility for the independence constitution. What you have before you are the British Government's proposals, taking account of the points made to us in our consultations. They are intended to give effect to the principles which have been accepted by successive British Governments as the proper basis for independence. Those principles are that the principle of majority rule must be maintained and guaranteed; that there must be guarantees against retrogressive amendments of the constitution; that there should be immediate improvement in the political status of the African population; that racial discrimination is unacceptable; that we must ensure that, regardless of race, there is no oppression of majority by minority or of minority by majority; and that what is agreed must be shown to be acceptable to the people of Rhodesia.

Second, our proposals are comparable to the basis on which the United Kingdom has granted independence to other former dependent territories, in particular those in Africa. We have no doubt, therefore, that a solution on this basis will be accepted by the international community, as giving effect to the principles we have accepted in granting independence to our other former dependent territories. In the case of Rhodesia, as in all other cases, a constitution must take account of special circumstances, but the broad lines of independence constitutions are clear enough; and in the precedents there are points which can help us towards a solution, for example on the representation of minorities.

Third, we have made it unequivocally clear that our constitutional proposals represent in outline the kind of constitution on the basis of which the British Government would be prepared to grant legal independence. If agreement could be reached on alternative proposals which meet the British Government's criteria, we would be ready to grant independence on that basis, but we believe that the best hope of success lies in negotiation on the lines we have proposed, in accordance with the Commonwealth Declaration.

If it is possible to get agreement on the general framework for the independence constitution, the British Government will be prepared to put forward more detailed proposals to give effect to that agreement. We shall therefore have further suggestions to put before the conference. But, before we advance to that stage, we must establish what measure of agreement exists on the outline proposals, and where the major difficulties will lie. As the first step, therefore, I shall hope to hear your views on the outline proposals.

Before inviting you in our next session to state your positions on the constitutional framework for independence, I would like to speak briefly about the arrangements to give effect to an agreement on the constitution.

In other countries approaching independence, the United Kingdom's role has invariably been to establish just conditions for independence, not to encourage the aspirations of this or that party. Our role in Rhodesia will be the same as in other dependent territories. The international community is well aware of this and of our constitutional responsibility. In many countries we have handed over power to people who had previously been confirmed opponents of the policy of the United Kingdom, if they have been elected by the people of their countries. In the position which we agreed with other Commonwealth Governments at Lusaka, we stated that there must be free and fair elections, properly supervised under British Government authority and with Commonwealth observers. This has been accepted by all Commonwealth Governments; and, as I have already said, the British Government will be ready to carry out its responsibilities in this regard.

CONFERENCE PROCEDURE

I turn now briefly to the way in which we might proceed at this conference. The conference is being held under my chairmanship. I attach the highest priority to bringing it to a successful conclusion, and I intend to play the fullest part in the proceed-

ings. At times when I am prevented from being here, I would propose to ask the Lord Privy Seal, Sir Ian Gilmour, to take the chair.

We have made no attempt to fix the duration of the conference; I hope that we can move forward rapidly. I trust that we can show real progress towards agreement on the constitution. We for our part are prepared to continue for as long as is necessary provided of course that progress is being made. In the opening plenary sessions I would ask you to set out fully your views on constitutional questions and on the outline proposals before the conference, as I have done. Depending on the progress made, it might then be appropriate to consider aspects of the constitution in more detail, perhaps on the basis of further proposals tabled by the British Government. We may also wish to consider meeting in less formal groups at different levels. We shall have to decide on this as we proceed.

The Conference Secretariat, headed by the Conference Secretary, Mr Willson, is at the service of all delegates. Any questions on administrative arrangements should be referred to Mr Willson and the Conference Officers assisting him.

The Secretariat will prepare summary records of discussions in the formal conference sessions, that is to say records which give a resume of the main points made by each speaker. They will circulate these records within 24 hours. If you wish to make corrections of substance to your own interventions, please do so within 2 days. These will also be circulated. The summary records will not be made available to the press.

There will be world-wide interest in the progress of the conference and a great many journalists have been accredited to it. I shall be making public my own statement this afternoon; you may wish to do the same with your opening speeches. The press will not be admitted to Lancaster House, but there is a fully equipped press centre across the road. This is at the disposal of all delegations. Mr Fenn will act as my Spokesman as Chairman of the Conference; he will also release to the press any joint statements on which we may from time to time agree. I invite each delegation to nominate a member of their staff as press secretary, to be in touch with Mr Fenn about these matters. They will of course be welcome to make use of the facilities at the press centre.

If there are other papers which you wish to have circulated to all participants, the Secretariat will be ready to have them reproduced and distributed as conference documents.

SUMMARY OF PRESENT POSITION

In Conclusion:

This conference has been convened in response to the statement agreed by the Commonwealth Heads of Government in Lusaka.

We have put forward proposals designed to bring Rhodesia to legal independence; your acceptance of our invitation has given hope to the people of Rhodesia and the neighbouring countries. It is within the power of the parties represented here to bring an end to the war.

I have deliberately avoided talking of a "last chance" of a settlement. Last chances have come and gone before. I would put it differently: since Geneva the conflict has reached new levels; the cost of continuing it is very high. Since 1976 the number of men under arms on both sides has more than doubled. The war has spread into neighbouring states and the toll in casualties inside Rhodesia and in the neighbouring countries has continued to rise. Neither side has infinite resources. The price of failure at this conference would be further prolonged bloodshed and further destructions of the life of whole communities. The responsibility for preventing this lies upon all those present here. The eyes of the international community will be upon us all to see that we live up to that responsibility. The British Government is determined for its part to do everything in its power to bring this conference to a successful conclusion. It is in that spirit that I would ask you, also, to address the task before us.

Text issued by the British Information Services, Johannesburg.

NEGOTIATIONS ON SOUTH WEST AFRICA/NAMIBIA

A. Statement by Mr Don McHenry, United States Ambassador at the UN, on 7 May 1979*

I am pleased to have this opportunity to discuss with you today the negotiations in which the United States has been involved during the past two years on the question of Namibia. Namibia is not well-known to Americans, but a peaceful transition in that country could be of critical importance for the future of Southern Africa.

Namibia, also known as South West Africa, was a German

* At a hearing before the subcommittee on Africa of the US House of Representatives International Relations Committee.

colony and became a League of Nations' mandate under South African administration following World War I. After World War II, South Africa sought to annex the territory and, when rebuffed by the UN, South Africa refused to place the territory under the trusteeship system of the United Nations. Thus began a long dispute between South Africa and the international community, involving numerous judgements of the International Court of Justice and even more numerous debates in the United Nations, culminating in the 1966 decision of the United Nations General Assembly, with the support of the United States, to terminate South Africa's mandate, an action subsequently upheld by the International Court. The International Court of Justice ruled that South Africa's presence in Namibia was illegal and that South Africa was obliged to withdraw. South Africa again refused to withdraw.

Instead it embarked upon a policy which would have transferred power under a constitution so formulated as to ensure the continued disproportionate influence of Whites and which stood no chance of obtaining the necessary political consensus which would merit either Namibian or international acceptability. Nor would it stem the guerrilla war which, in opposition to South Africa's continued rule and application of apartheid in the territory, had gradually developed between South Africa and the Namibian nationalists, principally the South West Africa People's Organization (Swapo). To this day this cycle of violence continues to escalate with ominous implications for the future of the entire region.

It was against this background that in April of 1977, the then five Western members of the United Nations Security Council — Canada, France, the Federal Republic of Germany, the United Kingdom, and the United States jointly launched an unprecedented effort to find a peaceful solution for the Namibian problem. The initiative was possible because we were able to build on a set of principles unanimously adopted by the United Nations Security Council in Resolution 385 in January 1976. I might add that the initiative was also possible because of the goodwill and great expectations which greeted President Carter's election and his appointment of Ambassador Young as United States Representative to the United Nations.

From the outset the five nations made clear that their goal was to formulate an internationally acceptable method of implementation of the principles contained in Resolution 385 which called for free and fair elections under UN supervision and control. The Five made clear that they favoured no particular Namibian political group. The Five were interested not in the outcome of

1. See *Southern Africa Record* no. 4, February 1976. pp. 40 - 42.

the elections but solely in ensuring that all Namibian people would have an equal opportunity to freely and fairly elect their own government. The Five also recognized that in order for a settlement to be meaningful and lasting it would have to be accepted by the two parties engaged in the armed conflict — the South African Government and Swapo, which enjoyed substantial support within Namibia and internationally.

It is important here to emphasize two facts which these negotiations have had to take into account. South Africa, unlawfully in occupation of Namibia, was nevertheless the *de facto* governing authority there, and its assent was essential to any settlement. Swapo, although only one of several Namibian political groups, carried the war effort; had the support of a major segment of the population; the unanimous support of other African governments and the majority of non-African members of the United Nations. No peaceful settlement could be achieved without Swapo's participation. Finally, we recognized that a successful undertaking must involve the co-operation of the front line states (Angola, Botswana, Mozambique, Tanzania and Zambia) and Nigeria, in helping with the negotiating process, in assuring successful implementation of an agreement, and, most importantly, in assuring respect for the outcome of the elections. These states have fully supported our efforts.

The negotiating process itself has been unique and extraordinarily complex: it could not have been undertaken without modern communications. Five nations have operated as one negotiating team, which has come to be known as the Contact Group. Each step has required careful co-ordination among our missions in New York, our capitals, our embassies in the front line states and Nigeria and our embassies in South Africa.

In addition to the complexities of this five-nation arrangement, those involving the negotiating procedure have been numerous. For example, South Africa refuses to meet with Swapo. This has necessitated various forms of shuttle diplomacy as well as so-called 'proximity talks' in which the two parties travel to one city and meet with the Contact Group separately.

There also have been a number of nations, groups and organizations involved in the process in one capacity or another with whom we have maintained regular communications. We have met with all of the major Namibian political groups at each stage of the negotiations in order to ensure that they were kept informed and to take their views fully into account. United Nations Secretary General Waldheim has played an important role in carrying the effort forward as have his Special Representative for Namibia, Mr Martti Ahtisaari of Finland, and the

Security Council as a whole.

As in any long-standing dispute, the current negotiations have been hampered by additional and political problems. First, whatever their ultimate motives, both South Africa and Swapo have been anxious to avoid being seen internationally as the intransigent party. South Africa may have faith only in a so-called internal solution, and Swapo may have faith only in a military one. However, neither wished to lose what support it had in the international community, and this desire not to lose support has tended to motivate them both toward a settlement.

Second, a constant problem throughout the effort has been the pervasive presence of distrust; distrust between South Africa and Swapo; the distrust which each of them have of the five; and the distrust which South Africa has for the United Nations. Swapo believes that South Africa aims at continued dominance through installation of a government favourable to South Africa and will only agree to a settlement which guarantees such an outcome. South Africa, for its part, believes that Swapo aims only at the seizure of power and will not abide by the results of a fair electoral process.

AB South Africa and the United Nations have been at odds over Namibia since the United Nations' inception, and the United Nations has also soundly and regularly criticized South Africa for its policies of apartheid. In addition, the General Assembly's endorsement of Swapo is well-known. South Africa therefore views the United Nations not as an organization of neutrality, but as one unalterably hostile. I should note in this regard that while the General Assembly has endorsed Swapo as the 'sole and authentic representative of the Namibian people', it is the Security Council working through international civil servants, and not the General Assembly, which will oversee the transition in Namibia, and the Security Council has adopted no such position. Moreover, the United Nations has an excellent record for impartial peacekeeping operations.

AB The distrust by Swapo of the Five stems from its view that South Africa's very dominance is dependent upon Western economic and political support. One manifestation of this distrust was Swapo's initial objection to inclusion of NATO nations in the composition of the proposed UN military presence in Namibia.

AB South Africa, on the other hand, fears that the Five are susceptible to pressure from the Africans. South Africa's distrust has been dramatized in recent weeks by the repeated accusations made publicly by the South African Government that the Contact Group, the United Nations Secretariat, and certain United

States officials, have during the negotiations displayed deceit, double-dealing, and a pro-Swapo bias. We have refrained from commenting publicly on these accusations, largely because we believe that the search for peace is best pursued through calm and private deliberation and with an acceptance of the good faith of all even in the presence of sharp disagreement. However, this forbearance should not be mistaken. There is not a shred of truth in South Africa's charges.

A third problem in the Namibian settlement effort has been the difficulty, if not the impossibility, of separating Namibia from the other occurrences in the region. It is difficult to isolate political developments in Namibia from those in Rhodesia: from the internal politics and political turmoil in South Africa itself: from South Africa's fear of being surrounded by radical black African states: or from the ultimate objectives of outside forces. All of these influences play on the prospects for a settlement in Namibia and in fact hold those prospects hostage.

A final problem which I would like to raise at this point is that neither South Africa nor Swapo is monolithic though, publicly at least, each projects such an image of itself and of the other. Both have factions with differing views and different constituencies which make the decision-making processes on each side delicate and frequently time-consuming. Too frequently internal politics have prompted both sides to make decidedly unhelpful public statements which have either raised new problems or closed off potential avenues of accommodation.

These, then, are some of the attitudinal and political problems with which the Five have had to deal in our settlement effort. That effort initially consisted of determining through lengthy discussions with the parties their concerns, their demands, and their areas of compromise. Agreement was quickly reached on a number of points. Before long, however, it became apparent that if the impasse over Namibia was to be broken the Five would have to develop their own proposal for a settlement and then try to bring about its acceptance. On April 10, 1978, the Five placed their proposal for a settlement before the United Nations Security Council. We recognized that it did not meet all of the demands of either party; however, we believe that it offers a fair and balanced solution based on the legitimate concerns of the parties and reasonably bridges the gaps between the parties.

The proposal submitted to the Security Council is based on the principles set down in Security Council Resolution 335 and consists of the following key elements:

2. *Op. Cit.* no. 12, May 1978, pp. 25 - 30.

1. A cessation of all hostile acts by all parties and the restriction of South African and Swapo armed forces to base. Thereafter a phased withdrawal from Namibia of all but 1500 South African troops within 12 weeks and prior to the official start of the political campaign. The remaining South African force would be restricted to Grootfontein or Oshivello or both and would be withdrawn after the certification of the election;
2. A South African-appointed Administrator General would administer the territory during the transition period leading to the election of a constituent assembly. However, all acts affecting the political process would be under United Nations supervision and control in that the UN Special Representative will have to satisfy himself at each stage as to the fairness and appropriateness of all measures affecting the political process at all levels of administration before such measures take effect;
3. A United Nations Transition Assistance Group (UNTAG), consisting of civilian and military elements whose size and composition would be determined by the Secretary General, would be introduced in the territory to ensure the observance of the terms of the settlement;
4. Primary responsibility for maintaining law and order in Namibia during the transition period would rest with the existing police forces. However, among other things, the Administrator General, to the satisfaction of the United Nations Special Representative, would ensure the good conduct of the police forces. The Special Representative would make arrangements when appropriate for United Nations personnel to accompany the police forces in the discharge of their duties.
5. All Namibian political prisoners and detainees would be released, exiles would be free to return, and conditions for free and fair elections would be established (E.B. Freedom of Speech, Movement, Press, Assembly and the Repeal of Discriminatory or Restrictive Legislation).

The settlement proposal does not attempt to spell out all of the details involved in such a settlement. Some points are of necessity general: to try to refine them more precisely would have entailed years of negotiations. Instead the proposal depends heavily on co-operation between the Administrator General and the United Nations Special Representative. The settlement proposal of the Five was not immediately accepted by either party, but by the end of July 1978 both parties had agreed that the Secretary General should be requested to draw up his

report on how the proposal would be implemented. This agreement was not reached, however, without first addressing a number of contentious issues, the most notable of which was the question of Walvis Bay. Moreover, in their public statements each chose to emphasize certain aspects of the proposal while understanding or even omitting counterbalancing provisions.

When the Secretary General's plans for implementation were announced they too became the source of controversy. South Africa, for example, objected to the holding of elections after December 1978, despite the fact that the proposal clearly required a seven-month process which, given the date of acceptance by the parties, could not be completed by the end of 1978. South Africa also objected to the size of the proposed 7500-man United Nations military presence, despite the formidable size and nature of the territory; despite South Africa's own concern for security; and despite the fact that the settlement proposal left the formation of UNTAG to the discretion of the Secretary General.

These initial objections were resolved through further discussions but not before South Africa took another step which seemed to be directed toward an internal settlement. Over our strong objections, unilateral elections took place in December 1978, and a so-called Constituent Assembly was established. The elections were boycotted by several parties and the resulting assembly consists almost entirely of the Democratic Turnhalle Alliance, the party widely assumed to be favoured by the South African Government.

The South Africans then advised Secretary General Waldheim at the end of December that they were prepared to cooperate with the implementation of the United Nations plan and suggested that the Secretary General's Special Representative visit South Africa for discussions. These talks took place this past January, and Mr Ahuisaari also visited the front line states and met with leaders of those countries and of Swapo. These discussions made clear that both parties were seeking to obtain advantages in the implementation process which they were not able to achieve in the negotiations. For example, South Africa insisted on the monitoring by UNTAG of Swapo bases outside of Namibia, and Swapo asked for a period of time after the ceasefire during which 2 500 armed Swapo personnel would be moved to five bases to be established inside Namibia.

Neither of these positions was accepted by the Secretary General. Instead the Secretary General issued a report on the 26th of February which presented his proposals for the resolution of the few remaining issues.

In that report Secretary General Waldheim stated that, while the settlement proposal made no specific provision for the monitoring by UNTAG of Swapo bases in neighbouring countries, those countries nevertheless had been asked to ensure that the provisions of the transitional arrangements, and the outcome of the election, would be respected. In addition, the Secretary General was seeking the agreement of the Governments of Angola, Botswana, and Zambia for the establishment of UNTAG liaison offices in their countries to facilitate co-operation in the implementation of the proposal. The Secretary General also specified arrangements for the handling of Swapo armed personnel, carefully differentiating between those inside Namibia at the time of the ceasefire and those outside. Any Swapo armed forces in Namibia at the time of the cease-fire would be restricted to designated locations inside Namibia. All Swapo armed forces in neighbouring countries would, on the commencement of the cease-fire, be restricted to base in those countries.

South Africa again reacted negatively to the Secretary General's proposals, in particular those relating to the absence of UNTAG monitoring of Swapo bases in Angola and Zambia and to the handling of Swapo armed personnel who are in Namibia at the time of the cease-fire. To avert a breakdown of the initiative over these issues, another round of ministerial level 'proximity talks' was held in New York on March 19 and 20 during which Secretary Vance and his colleagues presented our view to South African Foreign Minister Botha that the Secretary General's report was consistent with the original proposal which South Africa had accepted. During those talks, the Swapo delegation:

- Accepted the restriction of their own forces outside Namibia to base outside Namibia:
- Accepted the Secretary General's proposal for designating locations to which any Swapo armed personnel inside Namibia at the start of the cease-fire would be restricted and monitored:
- Accepted the Secretary General's intention to designate only one or two such locations:
- Stated that they had no intention of infiltrating any armed personnel into Namibia following the start of the cease-fire and that in fact they had no intention of infiltrating any armed personnel during the period between the signing of the cease-fire and the actual start of the cease-fire.

Swapo has thus accepted the implementation plans of the Secretary General, which the Five also fully support, and is now

prepared to move ahead with that implementation. During these same proximity talks the front line states reiterated their commitment to scrupulously ensure the observance of the cease-fire agreement.

Because South Africa's objections are still outstanding, I believe it useful to examine in greater detail the two principal issues which seem to stand in the way of South Africa's acceptance.

First, South Africa has called for monitoring by UNTAG of Swapo bases outside Namibia. However desirable such monitoring may be, South Africa was informed prior to its acceptance of the Five's proposal last year that such a provision was unacceptable to the neighbouring states and that this element was taken into account in determining the size and functions of UNTAG. Neither we nor the United Nations can dictate to sovereign nations which are not a party to the settlement. As I have previously stated, the front line states have committed themselves to ensuring the scrupulous observance of the cease-fire. We accept these assurances.

The second issue, and the one which seems now to be South Africa's primary objection, is the Secretary General's proposal that any Swapo armed personnel in Namibia at the start of the cease-fire will be restricted and monitored by the UN at designated locations inside Namibia. In making this proposal the Secretary General was faced with a very difficult practical question. The Secretary General decided, and the Five support him in this decision, that those Swapo armed personnel inside Namibia, estimated at perhaps several hundred, should be identified and restricted in such a way as to facilitate their monitoring. There were, of course, other alternatives, such as safe passage out of the territory, or disarming of Swapo personnel. However, the level of Swapo distrust of South Africa's intentions was such that Swapo was not prepared to take these courses which, of course, would allow South Africa to gain in the peace that which it could not gain in the conflict, i.e. the elimination of Swapo's armed presence in the territory. In this regard, South Africa's objective is no less objectionable than Swapo's rejected proposal to introduce a large armed force after the cease-fire.

It is possible to engage in a legalistic argument over whether the establishment of such Swapo locations was envisioned under the settlement proposal. However, it is only the practical problem which must be solved. The Secretary General was sensitive to the need to ensure that the electoral process could not be adversely affected by the manner in which this issue was handled. The locations would as far as practical be away from

population centers. The Swapo personnel would be restricted to those locations and monitored closely by the UN.

I might add that two other Namibian political groups which had previously supported implementation of our settlement proposal, the Swapo-Democrats and the Namibia National Front, initially opposed the suggestion of a Swapo armed presence inside Namibia, in part because they thought that Mr Waldheim's plan was intended to accede to Swapo proposals which had in fact been rejected. This misunderstanding has been corrected, and Swapo-D has now urged immediate implementation of the Secretary General's plan. The NNF is expected to announce its position soon.³

There are several lesser issues which could be raised to a higher degree of importance. These include the composition of the military component of UNTAG and the timing of UN-supervised elections. Neither Swapo nor South Africa has yet given its formal agreement to the composition proposed by Secretary General Waldheim, but this should be relatively easily achieved once the major issues are resolved. South Africa has not withdrawn its earlier insistence on the holding of elections by September 30, a date which South Africa's delay in accepting implementation of the settlement proposal obviously has made impossible to meet. While we recognize the need to move ahead rapidly and recognize that deadlines can serve to spur events onward, we continue to believe that peaceful accommodation through free and fair elections is more important than an artificial deadline.

In conclusion, let me say that the five governments believe our settlement proposal and the implementation plan of Secretary General Waldheim offer a balanced and fair settlement of the Namibian question and the only viable settlement available which can bring about an independent Namibia which enjoys broad international support. To be sure, this settlement package does not satisfy every demand of everyone involved, but it does in our estimation satisfy every legitimate concern of the parties.

Swapo is now prepared to proceed with this settlement. So are the Five, the United Nations Security Council, and the international community generally. South Africa has not agreed and has said that it must consult with other Namibian political groups before it makes its decision. We recognize South Africa's desire to hold these consultations, but it is the South African Government which must determine whether or not it will cooperate with the United Nations in an internationally acceptable settlement. That responsibility cannot be passed off to others.

3. *Op. cit.* no. 17, October 1979. pp. 11-19

13 Most African members of the United Nations are convinced that South Africa has never had any intention of proceeding with an internationally acceptable settlement in Namibia. The front line states believe that, since they have brought Swapo to accept the settlement, it is now up to the Five to obtain South Africa's agreement. If South Africa does not agree, there will be increasingly strong calls at the United Nations for us to support our own negotiations by exerting real pressure on South Africa, in other words some form of economic sanctions.

We have continually told the front line states and other African nations that negotiation is a real alternative to the armed struggle in Southern Africa. Our inability to obtain South Africa's acceptance would almost certainly be seen as proof of an ultimate lack of will in the West to press South Africa to co-operate with a negotiated settlement. It would be seen by Africans as proof of the ineffectiveness of negotiation for peaceful change as a viable alternative to long and bloody military solutions. It would surely adversely affect the prospects for negotiated settlement in the rest of Southern Africa. It would result in an escalation of hostilities and chaos and open further opportunities for outside forces and alien ideologies.

At the present there are several serious developments which further complicate and even endanger the settlement effort. Once again South Africa has arrested without charge or trial almost the entire leadership of Swapo. There are reports of greatly increased South African military activity. Conversely there are reports of heightened Swapo guerrilla action. All of this indicates that the cycle of violence is expanding.

At this stage Namibia is still a relatively small problem in Southern Africa — and the one most susceptible to a negotiated solution. With time, however, it will become increasingly complex and difficult.

Bitterness will exceed reason. Today's compromise solution will be overshadowed by non-negotiable demands. For these reasons, we must continue to do our utmost not to let the opportunity of a peaceful settlement pass us by.

B. Resolution 33/206 (1979) adopted by the UN General Assembly on 1 June 1979

The General Assembly,

Gravely concerned at the critical situation in Namibia,

Having heard the statements by the President of the United Nations Council for Namibia 1/ and the President of the South West African People's Organization, 2/

Bearing in mind its resolution 1514 (XV) of 14 December 1960, containing the Declaration on the Granting of Independence to Colonial Countries and Peoples, and reaffirming the inalienable rights of the Namibian people to self-determination, freedom and independence in a united Namibia,

Recalling its resolutions 2145 (XXI) of 27 October 1966 and 2248 (S-V) of 19 May 1967 and subsequent resolutions of the General Assembly and the Security Council relating to the question of Namibia, as well as the advisory opinion of the International Court of Justice of 21 June 1971, 3/ which emphasized both the illegality of South Africa's occupation of Namibia and the direct responsibility of the United Nations for the Territory,

Recalling also resolution S-9/2 of 3 May 1978 containing the Declaration on Namibia and Programme of Action in Support of Self-Determination and National Independence for Namibia, adopted by the General Assembly at its ninth special session,

Indignant at South Africa's persistent refusal to withdraw from Namibia in utter defiance of numerous resolutions of the United Nations and gravely concerned at South Africa's escalated brutal repression of the Namibian people as well as the measures it has taken to destroy the national unity and territorial integrity of Namibia,

Convinced that South Africa is seeking to establish a puppet régime in Namibia in contravention of resolutions of the United Nations, in particular Security Council resolutions 385 (1976) ⁴ of 30 January 1976 and 435 (1978) ⁵ of 29 September 1978,

Strongly reiterating its support for the national liberation movement of Namibia, the South West Africa People's Organization, the sole and authentic representative of the Namibian people in their struggle by all means, including armed struggle, to achieve self-determination, freedom and national independence in a united Namibia,

1. A/33/PV.97, p. 7

2. *Ibid.*, p. 27

3. *Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) notwithstanding Security Council Resolution 276 (1970)*, Advisory Opinion, I.C.J. Reports 1971, p. 16

4. See *Southern African Record*, no. 4, February 1976, pp. 44-42

5. *Op. cit.* no. 14, December 1978, pp. 43-44

1. Declares the urgent need to ensure the attainment of the inalienable rights of the Namibian people to genuine self-determination and national independence in Namibia, including Walvis Bay, in accordance with the Charter of the United Nations and the Declaration on the Granting of Independence to Colonial Countries and Peoples as well as all subsequent resolutions of the General Assembly and the Security Council, including Council resolution 385 (1976), relating to Namibia, and supports the legitimacy of their struggle by all means at their disposal against the illegal occupation of their Territory by South Africa;
2. Solemnly reaffirms the direct responsibility of the United Nations for Namibia, renews its determination to ensure the effective and complete discharge of this responsibility and, to this end, calls upon all Member States and bodies and organs of the United Nations to support fully the United Nations Council for Namibia as the legal Administering Authority for Namibia until independence in the implementation of its mandate;
3. Determines that South Africa has acted deceitfully through unilateral measures and sinister schemes within Namibia during the protracted period of talks for a negotiated settlement in Namibia to the detriment of the Namibian people and their national liberation movement, the South West Africa People's Organization, and in contravention of resolutions of the Security Council, in particular resolutions 385 (1976) of 30 January 1976, 431 (1978)⁶ of 27 July 1978, 435 (1978) of 29 September 1978 and 439 (1978) of 13 November 1978,⁷ and relevant resolutions of the General Assembly;
4. Strongly condemns the racist régime of South Africa for its arrogant and defiant actions in imposing on the Namibian people a so-called internal settlement through a fraudulent and illegal "national assembly" designed to achieve international recognition for its puppets therein in order to perpetuate South Africa's illegal occupation and its colonial and racist exploitation of Namibia;
5. Calls upon all Member States and the international community to refrain from according any recognition to, or cooperating with, the illegal national assembly or any régime which racist South Africa may impose upon the Namibian people in disregard of resolutions of the United Nations;

6. *Op cit.* no. 13, September 1978, p. 1

7. *Op cit.* no. 14, December 1978, p. 54

6. Solemnly reaffirms that a just and durable settlement of the question of Namibia is possible only with the direct and full participation of the South West Africa People's Organization, the sole and authentic representative of the Namibian people, and that the parties to the conflict in Namibia are, on the one hand, South Africa, which is illegally occupying the Territory and committing aggression against the people, and, on the other, the Namibian people, under the leadership of the South West Africa People's Organization, supported by the United Nations, which has direct responsibility for the Territory until independence;
7. Strongly condemns South Africa for its escalated arrests and detentions of leaders and members of the South West Africa People's Organization, and other acts of violence against the Namibian people, as part of its attempts to frustrate the aspirations of the Namibian people for genuine national liberation, to destroy the South Africa People's Organization and to impose a so-called internal settlement in Namibia;
8. Demands that the racist South Africa régime immediately and unconditionally release all leaders and members of the South West Africa People's Organization and cease all violence against the Namibian people;
9. Calls upon Member States, specialized agencies and other international organizations to render increased and sustained support and material, financial, military and other assistance to the South West Africa People's Organization to enable it to intensify its struggle for the liberation of Namibia;
10. Solemnly declares that South Africa's illegal occupation of the Territory of Namibia, its consistent defiance of the United Nations, its war of repression being waged against Namibians, its persistent acts of aggression launched from bases in Namibia against independent African countries, its colonialist expansion and its policy of *apartheid* constitute a serious threat to international peace and security;
11. Demands once again the immediate and unconditional end of the illegal occupation of Namibia by South Africa;
12. Calls upon the Security Council to convene urgently to take enforcement measures against South Africa, as provided for under Chapter VII of the Charter in order to ensure South Africa's compliance with the resolutions and decisions of the United Nations on Namibia.

C. Extracts from statements in Parliament by the South African Foreign Minister, the Hon. R.F. Botha, on 5 and 6 June 1979*

In South West Africa this Government reached an agreement with the West after deliberation and consultation and at the request of the leaders of the democratic parties of that territory and assented to the territory receiving its independence on the basis of "one man, one vote" and to all forms of discrimination based on colour being removed. In South West Africa a National Assembly is in the process of obtaining legislative powers — in fact, it has already done so — on the basis of a majority vote. Black people form the majority in that Assembly. But in spite of that the General Assembly of the UN recommended last week that punitive measures should be promulgated against South Africa, not as a result of our internal policy in the Republic of South Africa, but after we had assented to the holding of an election on the basis of "one man, one vote" and to removing discrimination in South West Africa.

.....
Perhaps the salient features of events surrounding South West Africa are not known sufficiently, and that is why I want to deal with them again briefly.

It is important because I feel that we would appreciate the Opposition's support in this matter. It is a very important matter. From the remarks made by hon. members of the Opposition yesterday, I think I can say we have advanced a long way towards unanimity on this very important matter.

It must be remembered that for more than two years we were engaged in the most difficult — Sometimes almost intractable — discussions and negotiations with the five Western powers. It must be remembered that we have by now a track record, a track record of what we were prepared to do. We have a track record as reflected in our letters, discussions and in the fact that this Government accepted the settlement proposal of the West on 25 April 1978.¹ We indicated that we would implement that settlement proposal in good faith. What is not readily understood is that that proposal contained very painful provisions which went beyond what we had understood to be the position during previous negotiations. It was not easy for the South African Government to accept those proposals. It was not an easy matter for the democratic parties in South West Africa to accept certain provisions of that proposal, particularly those provisions dealing with

1. See *Southern Africa Record*, no. 12, May 1978. pp. 32-33

* During discussion of the Foreign Affairs Vote in the House of Assembly

an enormous United Nations presence in the territory and the reduction of South African troops to a minimum of 1 500 after a stipulated period of visible and confirmed peace in the territory. It was extremely painful. Furthermore, our relationship with the United Nations cannot be described as a happy state of affairs. We do not like each other. The UN and this Government are not very fond of one another. To put it mildly, we are not pals. It was difficult for us to accept the eventual proposal that a large and substantive United Nations military force and civilians ought to be introduced into South West Africa. It was not merely this Government alone who felt that way. Many of the black leaders of the territory actually said to me at the time that if there were going to be too many United Nations personnel present in Owambo, Kavango and the Caprivi with their jeeps, land-rovers, flags, uniforms and badges, their people might start thinking that Sam Nujoma had virtually taken over. They associate Sam Nujoma with the United Nations, and quite rightly. The United Nations' General Assembly only last week again reiterated that Swapo was the sole and authentic representative of the people of South West Africa and ought to be supported by the United Nations. The result is that in the minds perhaps more of the black people than the white people the United Nations is almost indelibly associated with Swapo. These are some of the basic reasons why I say that it was no easy matter for this Government and for the leaders of the democratic parties in the territory to accept the proposal of 25 April last year.

At that time the Administrator-General reported to us that leaders of the various democratic parties in the territory had emphasized that the proposal also provided that there would be independence by 31 December 1978. They asked for a guarantee that there would at least be elections before that date. I consulted the Cabinet and we said that the proposal provided for this in categorical terms — not “by” or “more or less” 31 December 1978. It stated categorically that at the latest independence should be achieved on 31 December 1978. It goes without saying that to achieve independence by 31 December 1978, the election provided for in the settlement proposal had to take place before 31 December 1978. We were therefore entitled, in terms of the Western proposal, to give the assurance to the democratic leaders of South West Africa that there would be an election before 31 December 1978. That is exactly what we did.

We made it clear to the five Foreign Ministers who came to this country in October 1978 and who had discussions with our new Prime Minister at the time — he was Prime Minister for only a few days when we were confronted with this problem — that we could

not interfere in the internal affairs of South West Africa. We informed them that we did not have the power to force measures down the throats of the leaders in the territory which they themselves felt could not possibly be consistent with free and open election. We have to respect the wishes of the people.

The cornerstone of the Government's approach in respect of South West Africa is to let the people decide their own future for themselves. The South African Government does not have an internal policy inside South West Africa for South West Africa. It has an internal policy for the Republic of South Africa — a good one, a solid one, the only one that can ensure peace and prosperity for the peoples of this country. However, as far as South West Africa is concerned, our approach is that the people inside South West Africa will decide on their own future. We will accept their decisions. Our commitment as far as South West Africa internally is concerned, is that we will guarantee — we are committed to do so — their safety and their security — in other words, that we will assist them to resist aggression from outside until they can handle their own security themselves. This is our basic approach.

After informing the five Foreign Ministers in October last year that we were still willing to implement the settlement proposal, but that elections ought to take place in December and that we would thereafter endeavour to persuade the leaders of the territory to co-operate in the implementation of the proposal,² I visited New York towards the end of November 1978 to have further consultations and discussions with Dr Waldheim and with Secretary of State Cyrus Vance. I also met with President Carter. These discussions were constructive. I returned; elections took place. A few days before Christmas 1978 the Prime Minister and I went to the territory; we went there at a time when there was a general atmosphere of euphoria. The DTA had won the elections hands down. They wanted to get on with the task of governing the country. They said that the UN settlement proposal — the same one as proposed by the Western powers³ — categorically stated that independence would be achieved by 31 December 1978. Swapo could have participated; all political parties that wanted to participate peacefully in the elections, had been invited to do so. The DTA stated they desired to get on with the task because they had been given a mandate by the people of South West Africa, a mandate of 80 per cent.

We must bear in mind under what extremely undesirable circumstances the registration of voters took place. Swapo was

2. *Op. cit.* no. 14, December 1978, p. 49

3. *Op. cit.* no. 12, May 1978, pp. 25-30

against it and consequently actively endeavoured to sabotage the registration attempt. The United Nations were against it and with all the means at their disposal attempted to sabotage it. The five Western powers were against it. Just about everybody in the outside world was against it, yet the registration was successful. Thereafter came the election. Again the whole world agitated against it. Swapo intensified its campaign of terror with the object of wrecking the election. The election results confirmed that an overwhelming majority of the people of the territory was in favour of achieving independence on a democratic and peaceful basis. They had had enough of the terror, abductions and intimidation of Swapo. For so many decades the International Court and the United Nations, by way of its various organs, had attempted to decide their future and had made and issued resolutions on South West Africa without taking into account the wishes of the people, never coming forward with any constructive proposals. Here at last, they said, they had what they had fought for in the past. They said the South African Government had given them freedom and had allowed them an election on the basis of "one man, one vote". This was it. This was what they wanted.

The Prime Minister and I addressed the Constituent Assembly at the time, to keep our commitment to the West and to President Carter when I met him at the end of November 1978, he encouraged the South African Government to persuade leaders of the territory to co-operate in the implementation of the proposal. He told me that if the South African Government could persuade the leaders of the territory to go ahead with the implementation, and I could let Dr Waldheim know this before the end of December, it would open the way for better relations between us. I conveyed the President's sentiments to the hon. the Prime Minister; he agreed and we went to South West Africa and did just that. But at first the leaders were somewhat disappointed. I remember some of the leaders asking me, before taking leave of them in Windhoek that day, whether I expected them to go back to Owambo and to tell their supporters in Owambo that they had fought the election for nothing, that nothing was going to crystallize out of it, that they would not get a government and that the election promises they had made to their voters would come to nothing, at least for the time being?

I do not say that they left Windhoek in a state of despair, but they certainly left in a state of disappointment although they understood that what we had done we had done for them and for our sake and, as we saw it, for the sake of the whole of Southern Africa. They therefore agreed that it was better, in the interests of the whole of Southern Africa, to go along with the expeditious

implementation of the proposal. Immediately thereafter I urged Dr Waldheim to arrange for Mr Ahtisaari to come to South West Africa and South Africa as soon as possible for discussions on the final implementation measures that had to be taken and also some outstanding matters. Mr Ahtisaari came. He was in Cape Town towards the middle of January to the last week in January, and we discussed various matters. The composition of the United Nations Transition Assistance Group was a matter which was handled directly between Dr Waldheim and myself. Dr Waldheim presented us with a list of countries. We provided him with a list containing our suggestions. He had difficulties with just about every country on our list. Eventually I accepted every country on Waldheim's list bar one. That was the way mutual "consultation" worked. The proposal states that he should consult with us about the composition of Untag. It was I, however, who accepted all the countries on his list, except one, and that was if I remember correctly Bangladesh. The leaders of South West Africa suggested another country from the East. They thought we could get a better country than that, for certain reasons. We accepted virtually all the other suggestions regarding implementation presented to us. After the Swakopmund talks, which preceded the Cape Town talks, Mr Ahtisaari complained that he had gained the impression that there was not sufficient co-operation as far as the implementation of the military programme was concerned. General Malan, who was sitting next to me, immediately suggested that General Phillip and General Geldenhuys could work out a practical implementation plan — which they did in the space of two days. The two of them worked it out together. It was not General Geldenhuys' plan. It was as much General Phillip's plan as it was General Geldenhuys' plan. Hon. members will remember that General Phillip is Dr Waldheim's UN Commander. The Government accepted that, although in that plan there were also some rather difficult issues which were not all that easy for us to accept. Again however, to facilitate implementation, we accepted. When Mr Ahtisaari left he told me that he was just going to report to Dr Waldheim in New York and would then fly out to the front-line states, hoping also to see Mr Nujoma. There might however, he said to me, be a problem regarding the monitoring of Swapo forces in neighbouring states as required in terms of the agreement, the settlement proposal. He said that to me. He never, however, questioned the provisions about that requirement in the agreement. He said that the front-line states might find it difficult to accept an Untag force on their soil because they might consider that as an infringement of their sovereignty. I explained to him that under the United Nations' Charter member states could not

complain about a Security Council decision in terms of article 25 of the Charter. All members of the United Nations must, in good faith, comply with Security Council resolutions adopted in good faith. So, in advance and voluntarily, states which join the United Nations sign away that part of their sovereignty. All states which are members do so. So it is no argument saying that one's sovereignty would be violated by allowing an Untag force on one's soil. One has agreed to that by signing the Charter. Nevertheless, to assist him I said that if that issue were to present a problem, he could overcome it by informing the front-line states that the South African Government would agree to Untag forces monitoring South African troops on South African soil near the border. I offered that in a desperate attempt to get the whole process implemented.

The position at that stage then was that we had accepted the countries on the list, bar one. We had drawn up a practical military implementation plan. We had come to an agreement on the status of the UN personnel to be stationed in South West Africa, that is to say an agreement on their rights and privileges. My legal advisers and other departments had worked very hard to get that draft agreement ready in time. We tentatively agreed that cease-fire day was to be 26 February 1979 and that shortly before that date the first contingents of Untag would arrive. General Malan in a further effort to co-operate, intimated that, as visible peace was established and camps became available and vacant, he would consider assisting them with accommodation — against payment, naturally.

That is the length to which we went and that is what we accepted — after having been cheated on several occasions. I told Mr Cyrus Vance and Dr David Owen in Ambassador Andrew Young's office in New York, not behind their backs, but to their faces: "I have been cheated." They then all looked down at the floor and not into my eyes. There are newspapers in this country who think one must buy freedom at all costs. One cannot. It is impossible. The price might be too high. If the peace they desire requires capitulation to terrorist forces and surrendering the country to destruction then the price is too high.

What happened then? Swapo simply continued with its murderous, heinous aggressive attacks against the innocent people of South West Africa. They never ceased their brutal acts of murder. I reported over 400 incidents of aggression, of killing innocent civilians and intimidation and the spreading of terror and fear in the minds and hearts of the people of the territory. This made no impression. Dr Waldheim recently stated that we were just "squealing" — squealing about the death, the torture

and murder of people! That is how he looks at it.

Then came February; implementation day was approaching. On 20 February we learnt of statements by Sam Nujoma. We monitored a radio transmission from Luanda. That transmission was a mistake, because the West, Ahtisaari and others, would have preferred that Nujoma did not publish his statement. However, we monitored the radio broadcast from Luanda and heard what Nujoma was demanding. He was demanding that Swapo troops be admitted into South West Africa with arms and be designated to locations where they would be restricted to bases. Just imagine the psychological advantage of such a step to this terror organization. What they could not achieve militarily, they wanted to achieve by means of new demands under this UN plan. Secondly, he rejected totally and unconditionally the monitoring of any Swapo forces outside South West Africa. What would the situation then be in terms of these demands of Nujoma? He would obtain what he had been unable to obtain through military success: Firstly bases inside the territory with the very considerable psychological advantage which such bases would create for Swapo in an election. Secondly, no one could check what his forces outside South West Africa were doing. Thus he would have nothing to lose. If he were to win the election by these improper means, well and good for him. We would have had to get out and would be faced with a refugee problem to the tune of three-quarters of the people of that country who would have left — of that I am convinced. Secondly, if he were to lose the election, he would be in a better military position than before the election and could carry on his war. What is more, I have received information that Nujoma was told that in any event he need not fear anything. At the end of the election, a fair and open election attended to by UN officials, Mr Ahtisaari is required to issue a certificate to the effect that the elections were indeed free and fair should that have been the case. Nujoma was told: "Do not fear. If you lose, the certificate will never be issued." How is that!

Mr. J. Dalling: Who gave that assurance?

The Minister: He was told this. What then could he lose? No matter what we or the democratic parties of the territory do, we can never win.

That is the tragic history of events. I have brought the clear and categorical provisions of the agreement to the attention and notice of the West. The hon. the Prime Minister has done so too, as also our various ambassadors in Western countries. I have met with our ambassadors twice since November last year in Europe. We have sent note upon note, message upon message, to the various Governments of the West. We have tried to get the truth through

to them and we have asked them repeatedly: "Gentlemen, is this fair? Is it fair that you deviate from your very own proposals submitted to my Government, while you know how difficult it was for us and the democratic parties of the territory to accept them in the first place? The answer came back time and again: "Yes, but . . . It is still better to accept the latest proposals. How will we stop the war? How can we end the conflict? What would happen to Swapo forces outside the territory? They are virtually doomed to carry on the war." In other words, to end the war, we have to become a party to the installation of a terrorist group in South West Africa against the clear and confirmed wishes of the overwhelming majority of the people of the territory. This Government, if it has a choice between brief remission, brief popularity to avoid sanctions and punitive measures for a brief period on the one hand, and standing by its commitments to a fellow state in Southern Africa, on the other hand, when those are the alternatives, it prefers to stand by its commitment and to suffer the consequences for acting in an honourable way.

.....
I made it clear in a letter to the Foreign Minister of the five Western powers that what has happened in South West Africa cannot be termed UDI. It is not a unilateral declaration of independence. Some of the leaders of South West Africa would like to have greater powers conferred upon the National Assembly at this stage, but there are good reasons why we cannot confer executive authority upon the National Assembly at this stage. Instead of that, the Administrator-General will be assisted by a council consisting of members of the National Assembly. This council will assist him in the performance of his executive duties.

We did give legislative authority to the National Assembly, because the political momentum in this territory must not come to a standstill after so many months. The fact that the momentum is being slowed down by the months of negotiations is causing problems. The people there want to get started properly; they are heading for independence, and neither the Government nor the UN can prevent that. It has been promised to them; the people are claiming it and it must come. It is their right. We are applying the brakes, precisely because we would still like to give the West the chance, if they believe there still is a chance, to continue negotiating about possible ways of overcoming the obstacles. If they want such a chance, the Government is prepared to talk to them for the umpteenth time. The implications of a total break-down for Southern Africa are still so serious that we must remain patient. On two points the Government cannot yield, however, because the people of the territory would rebel against

it. Swapo must not obtain bases in the territory contrary to the agreement and Swapo forces must be confined to base and have their bases monitored by Untag. Therefore we have said that we should return to the original proposal which we accepted. Meanwhile, I expect no surprise steps in South West Africa . . .

South Africa expects South West to consult us and not to take its own surprise steps. The conduct of the leaders there has been responsible in the past. The hon. the Prime Minister said recently, when we were addressing quite a number of the leaders in Windhoek, that he would appreciate it if the parties could achieve the greatest measure of unanimity with regard to South West Africa's reaction to the international proposals. We hope that the leaders will act responsibly at all times, in spite of quarrels among themselves, something which we find painful, of course, and which we hope will be settled in the interests of the territory and of Southern Africa.

.....
As far as Walvis Bay is concerned, the hon. member (for Bezuidenhout. Mr J. du P. Basson) said that the administrative pattern developing there should not differ from the one which applies in South West Africa. This is a very delicate and difficult problem. The hon. member will understand why. All I can tell him is that the Government is aware of the delicate aspects involved and that the Government will go out of its way to avoid creating conflicting and irreconcilable situations there which could reflect adversely on us abroad. In fact, It is being considered whether we should not give Walvis Bay its own Director-General to administer it while taking into account as far as possible the currents and event(s) in South West Africa. As the hon. member rightly said, the people are moving back and forth all the time. It is important to us that we should retain our sovereignty over that territory. As the hon. member knows, we have large interests there, and it will certainly be possible to negotiate with a new friendly government in South West Africa about the future and the use of Walvis Bay. They will have full use of that harbour so that their import and export facilities will not be obstructed in any way.

.....
When I spoke earlier today about the composition of the UN's military contingent for South West, I said that we had objected to the inclusion of a certain country. Although we had misgivings about the country I mentioned, too, it was actually Finland that I had in mind.

Hon. members on that side of the House, especially the hon. member for Bezuidenhout, said that there should not be any change in the status of South West Africa before we had dis-

cussed the matter in Parliament. I then referred to the applicable legal requirements. I do not think that hon. members on that side of the House agreed with me at that stage. I have since consulted the South West Africa Constitution Amendment Act, Act No. 95 of 1977. From this it appears, according to my interpretation, that my standpoint is correct. I quote —

The State President may by proclamation in the *Gazette* make laws for the territory with a view to the eventual attainment of independence by the said territory . . .

I think this principle is also spelt out fairly categorically in the preamble to this Act. Therefore I just want to record the legal position and confirm that this a matter which rests with the Government. The Government will have to discuss it. I should prefer not to discuss it any further now, because it is actually a delicate question too. I should prefer not to wake any sleeping dogs as far as this is concerned.

.....
We on this side of the House do not desire isolation. If we did, why have we been negotiating with the five Western powers for two years, under the most difficult circumstances imaginable? I frequently spent more time in an aircraft than on the ground. That is not pleasant. It is not pleasant to fly to the UN. Nor is it pleasant to associate and hold talks with people who often turn their back on one and do not stand by their agreements, and although I have pointed this out, and had to point out the scheming that went on behind our backs, in the public interest and in the interests of truth and of justice, we on this side of the House have nevertheless persevered. We have not turned our backs on our negotiating partners. I repeat what I said earlier: We remain willing to talk to anyone who wants to come and talk to us in all sincerity about the implementation of the South West Africa settlement plan we accepted on 25 April 1978, which was accepted by the Security Council of the UN. This is on record. In this plan all the provisions are spelt out very clearly. All the South African Government is asking, at the request of the leaders of South West Africa, is that the Swapo bases, wherever they may be, should be monitored, as was categorically laid down in the settlement plan. I think hon. members all agree that this should be so. Secondly, we ask that no Swapo bases should be established in South West Africa in conflict with the agreement. I think all hon. members are agreed on that, too. If I have a consensus of opinion on these two points, then I say that I am prepared at any moment to talk to the UN, Dr Waldheim, Mr Ahtisaari and the five Western powers about the implementation of that agreement, as accepted by us. I hope the matter has now been clarified.

.....
South West Africa and South Africa must not be confused with one another. I will not interfere in the internal solution of South West Africa and we do not want them to interfere in ours. The same applies to Zimbabwe Rhodesia. There is no other way in which Southern Africa can develop mutual trust. The individual countries can disagree with each other and talk about their disagreements, but eventually we in South Africa must retain the right to determine our own constitutional future, just as we have conceded the right to the others to determine theirs.
.....

The hon. member (for Yeoville, Mr H.H. Schwartz) also said we must keep on talking with the five Western powers about South West Africa. But what have we been doing for two years? We have been talking for two years. I am keeping it up all the time and I shall continue to do so on the stated basis, that we cannot allow the establishment of Swapo bases inside the territory and that Swapo forces must be restricted outside the territory to bases wherever they might be. I trust that the hon. member agrees with that. Our door is open. I recently discussed this whole matter again with the British envoy, Mr Luce, a deputy minister, who visited us here in Cape Town. We had lunch together and I had a three-hour discussion with him. It was a fruitful discussion. I told him that we are still interested in talking. I cannot take it further than that. The hon. member also referred to armed Swapo personnel inside South West Africa and said that Mr Andrew Young had stated that the issue was really how to deal with that phenomenon, or problem, of Swapo armed personnel in the territory and that they were not really insisting on a specific way of resolving this issue. If that is the case, well and good. I can honestly state that up to now that was not our perception of the attitude of the USA because the West delivered to me in writing their opinion indicating that they supported the idea of the establishment of Swapo bases inside South West Africa. But certainly we can still discuss the matter if it is agreed that Swapo would not be allowed to be designated bases inside South West Africa. However, the point is simply that nobody who attended our discussions can have any doubt in his mind that Swapo armed personnel inside the territory must on ceasefire day in terms of the settlement proposal go back to their bases and be restricted there. If they want to return to the territory, in terms of the proposal, they must come through designated points of entry where they must lay down their arms and where they can then be issued with identity documents in the same way as all others in the territory — something which has now been undertaken — and in that way they can participate peacefully in the political process.

.....
As far as South West Africa is concerned, it may happen in the future that the Security Council may sit and may comply with the request of the General Assembly that coercive measures be taken against South Africa. I do not want us to have any illusions about this matter. It is one which has far-reaching implications and dangers. Hon. members must know what powers the Security Council has in this connection which can be used against us. I think I should refer to some of them for the sake of the record. Hon. members must remember that the Security Council has now been asked to meet in terms of chapter 7 of the Charter of the UN to consider enforceable steps against us because, as they put it, we refuse to co-operate, and because, according to them, we have practised deceit. Imagine: We have practised deceit as far as the implementation of the UN plan for South West is concerned! I want to quote from chapter 7. Article 39 reads as follows:—

The Security Council shall determine the existence of any threat to the peace, breach of the peace, or act of aggression and shall make recommendations, or decide what measures shall be taken in accordance with Articles 41 and 42 to maintain or restore international peace and security.

On the basis of this article, they will probably present the situation in South West Africa in such a light that our insistence on the implementation of a clear agreement will be alleged to constitute a threat to world peace, as a result of which the Security Council would obtain jurisdiction in terms of this article. Article 40 reads as follows:—

In order to prevent an aggravation of the situation, the Security Council may, before making the recommendations of deciding upon the measures provided for in Article 39, call upon the parties concerned to comply with such provisional measures as it deems necessary or desirable. Such provisional measures shall be without prejudice to the rights, claims or position of the parties concerned. The Security Council shall duly take account of failure to comply with such provisional measures. I quote Article 41:—

The Security Council may decide what measures not involving the use of armed force are to be employed to give effect to its decisions, and it may call upon the Members of the United Nations to apply such measures. These may include complete or partial interruption of economic relations and of rail, sea, air, postal, telegraphic, radio and other means of communication, and the severance of diplomatic relations.

I quote Article 42:—

Should the Security Council consider that measures provided for in Article 41 would be inadequate or have proved to be

inadequate, it may take such action by air, sea or land forces as may be necessary to maintain or restore international peace and security. Such action may include demonstration, blockade and other operations by air, sea or land forces of members of the United Nations.

In the light of South Africa's record of co-operation and integrity and of South Africa's offer to implement the UN proposal in respect of South West Africa — they know it has been made in all sincerity and we are still prepared to do it — I do not think that the reasonable States are prepared at this stage to invoke the provisions I have just quoted. But one can never be sure whether they will not yield under pressure of the radicals, as they so often have in the past.

I just want to say in conclusion that we in South and Southern Africa must wean ourselves of the idea that our salvation will come from outside through a process of wishful thinking. We in Southern Africa must accept once and for all, without hating others and being antagonistic, without alienating the West or the East — this must not be our intention — that we are on our own. We must accept that we have enough raw materials and material means to work out our own destiny. We must also accept that there is enough goodwill, fairness and confidence among our people to work out a solution for Southern Africa, a solution which will be viable and which, in the long-term, will be an example to the world of how people of different colours, of different backgrounds and degrees of development, can co-operate in peace with one another and can uplift one another to the mutual benefit of all. This is our challenge. I believe we have the means. We have the people, and the goodwill is there, but it has to be developed. I believe that the faith is also there, and I believe that if we go about it in a spirit of sincerity, we shall be richly endowed with blessings from Above.

South Africa (Republic) *House of Assembly Debates*, no. 17, 1979. Cols. 7800 - 7801, 7885 - 7897, 7934 - 7935, 7937 - 7938

D. Questions, concerning the implementation of UN Security Council resolution 435 (1978), answered by the United Kingdom Foreign Secretary, Lord Carrington, in the House of Lords on 26 June 1979

In the Lords today, Lord Brockway asked Her Majesty's Government what action is being taken to resolve the deadlock in Namibia following the debate in the General Assembly of the United Nations.

The Foreign Secretary and Minister for Overseas Development (Lord Carrington): My Lords, on behalf of the five Western Governments I discussed with the South African Foreign Minister in London on the 20th June possible ways to reach agreement on the implementation of Security Council resolution 435.¹ We agreed that there would be further exchanges.

Lord Brockway: My Lords, while appreciating that the Noble Lord has had those discussions, may I ask whether they give promise that there will be a renewal of dialogue with the Western Five, and do they hold out hope that there may be an election under United Nations supervision in Namibia?

Lord Carrington: My Lords, they certainly will mean a renewal of dialogue and I very much hope that they will do precisely what the Noble Lord has in mind.

Lord Brockway: My Lords, is there not a danger, unless these discussions evolve hopefully, that the unrecognised National Assembly in Namibia may adopt legislative powers and that the South African Administrator-General may have executive powers, which he is now using with great draconian authority?

Lord Carrington: My Lords, I think there are a great number of reasons why we should get on with this as quickly as possible. I agree with the Noble Lord Brockway. I would, however, say this about the National Assembly; whatever we may feel about it, it is seeking at this moment to remove racial discrimination in Namibia and that certainly should be welcomed.

Lord Avebury: My Lords, could the Noble Lord say whether it has not been the practice of the South African authorities all the way through these dealings on Namibia to suggest that they may ultimately comply with resolution 435 without actually taking any steps towards doing so? Did the Noble Lord in particular take up with the Foreign Secretary of South Africa the continued political detention without trial of members of the Opposition there and seek to obtain their release, as provided for in that resolution?

Lord Carrington: My Lords, there has been a good deal of recrimination on both sides in this matter. I thought the talks I had with Mr Botha were constructive and useful, and I hope very much that they will lead to a settlement of this problem. I would not wish to say anything at the moment which is going to make things more difficult.

Lord Goronwy-Roberts: My Lords, may I say that we on this side welcome the tone of the Foreign Secretary's answers this afternoon and certainly would support him in his hope. We wish him well in all the discussions he will hold. Perhaps he would like to assure the House that in future discussions he will take full

1. See *Southern Africa Record* no. 14, December 1978, p. 43

advantage of the very promising initiative of the Five which, although it met with certain difficulties after a very good beginning, nevertheless holds a great deal of hope for a solution in the future.

Lord Carrington: My Lords, I am much obliged to the Noble Lord but I hope that there is no misunderstanding. What I am talking about is discussions within the context of the Five's proposals. The difficulty is paragraphs 11 and 12, as the Noble Lord will know, about inspection of Swapo bases in Angola and in Namibia itself. The dialogues which will take place, to which I referred in reply to the Noble Lord, Lord Brockway, are of course, within the context of the Five's proposals.

Lord Barnby: My Lords, may I ask the Secretary of State whether it is not true that Britain is being put in a difficult position by continuing membership of the Committee of Five; that the United Nations leans to Swapo; that Swapo is directed by Russia and is in receipt of Marxist sources of finance, weaponry and training, and therefore shuns the ballot box and continues terrorism and delay?

Lord Carrington: My Lords, the proposals of the Five as the Noble Lord, Lord Goronwy-Roberts, knows very well, were accepted by Swapo, by the front-line states, by the South African Government. What we now have to face is that subsequently there has been an interpretation of one part of that agreement with which the South Africans do not agree. The purpose of my conversation with the South African Foreign Minister was to start a dialogue going again on those points with which the South Africa Government do not agree.

Text supplied by the British Information Services, Johannesburg

E. Resolution 454 (1979) adopted by the UN security Council on 2 November 1979

The Security Council.

Having considered the request by the Permanent Representative of Angola to the United Nations contained in document S/13595, as well as his note dated 31 October 1979 transmitting the text of a communique issued by the political bureau of the central committee of the MPLA-workers party (S/13599),

Having heard the statement of the Permanent Representative of the People's Republic of Angola,

Recalling its resolutions 387 (1976) of 31 March 1976 and 447 (1979) of 28 March 1979, which, *inter alia*, condemned South Africa's aggression against the People's Republic of Angola and

demanded that South Africa scrupulously respect the independence, sovereignty and territorial integrity of the People's Republic of Angola,

Gravely concerned at the premeditated, persistent and sustained armed invasions committed by South Africa in violation of the sovereignty, air space and territorial integrity of the People's Republic of Angola,

Convinced that the intensity and timing of these acts of armed invasion are intended to frustrate efforts at negotiated settlements in Southern Africa, particularly in regard to the implementation of Security Council resolutions 385 (1976)¹ of 30 January 1976 and 435 (1978)² of 29 September 1978,

Grieved at the tragic loss of human life and concerned about the damage and destruction of property resulting from the repeated acts of aggression committed by South Africa against the People's Republic of Angola.

Gravely concerned that these wanton acts of aggression by South Africa form a consistent and sustained pattern of violations aimed at weakening the unrelenting support of the front-line states to the movements for freedom and national liberation of the peoples of Namibia, Zambia and South Africa,

1. Strongly condemns South Africa's aggression against the People's Republic of Angola,
2. Calls upon the Government of South Africa to cease immediately all acts of aggression and provocation against the People's Republic of Angola and forthwith to withdraw all its armed forces from Angola,
3. Demands that South Africa scrupulously respect the independence, sovereignty and territorial integrity of the People's Republic of Angola,
4. Demands also that South Africa desist forthwith from the utilization of Namibia, a territory which it illegally occupies, to launch acts of aggression against the People's Republic of Angola or other neighbouring African states,
5. Requests member states urgently to extend all necessary assistance to the People's Republic of Angola and other front-line states, in order to strengthen their defence capacities,
6. Decides to remain seized of the matter.

1. See *Southern Africa Record*, no. 4, February 1976, pp. 40-42

2. *Op. cit.* no. 14, December 1978, p. 43

F. Letter dated 5 November 1979, from the South African Foreign Minister to the United Nations Secretary-General

Excellency,

I have received the text of resolution 454 (1979) adopted by the Security Council on 2 November 1979.

The South African Government emphatically rejects the resolution which was adopted without attempting first to establish the true facts.

As I pointed out to you in my letter of the same date,¹ there is, firstly, a civil war raging in Angola which leads to the kind of incident of which South Africa now stands accused. Secondly, Swapo is persistently using Angola as a springboard for hit-and-run attacks across the border in its campaign to terrorise the people of South West Africa.

South Africa is responsible for the safety of the inhabitants of the Territory and will continue to honour that commitment for as long as this situation persists.

South Africa is still waiting for the Security Council and the Secretary-General to condemn Swapo for its villainous acts. But instead of this the latest resolution further demonstrates the United Nations' lack of impartiality.

I should be grateful if this letter could be circulated as a document of the Security Council.

1. Letter of 2 November 1979, denying that "any acts of aggression against the People's Republic of Angola" had been committed by the SA Government, and giving examples of Swapo "atrocities" in South West Africa.

Released by the Information Service of South Africa at the request of the Department of Foreign Affairs.

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June